LUMLEY'S

UNION ASSESSMENT COMMITTEE ACTS,

WITH THE

VALUATION (METROPOLIS) ACT.

TENTH EDITION

By W. C. GLEN, Bar.-at-Law.

LONDON: SHAW & SONS, FETTER LANE, E.C.

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LUMLEY'S

UNION ASSESSMENT COMMITTEE ACTS,

1862—1880,

TO WHICH IS ADDED

THE VALUATION (METROPOLIS) ACT, 1869;

WITH INTRODUCTION, NOTES AND CASES;

ALSO

THE RATING ACT, 1874.

Tenth Edition

BY

W. CUNNINGHAM GLEN,
Barrister-at-Law.

London:
SHAW & SONS, FETTER LANE & CRANE COURT.

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PREFACE.

THIS Work contains the law with regard to the powers and duties of Assessment Committees throughout England under the Union Assessment Committee Acts, 1862—1880, and in the metropolis under the Valuation (Metropolis) Act, 1869, and the Amending Act of 1875.

The well known and popular work of the late Mr. Lumley, Q.C., on the Union Assessment Acts, 1862 and 1864, was placed in my hands by the publishers to revise with a view to the publication of a Tenth Edition of the Work. I accepted the task with some hesitation, but with a full sense of the responsibility which attaches to one who follows in Mr. Lumley's steps in a branch of the law in regard to which in his official position as Counsel to the Local Government Board he had acquired so much experience and knowledge. Excepting where a change in the law rendered it necessary to do so, I have not ventured to alter Mr. Lumley's notes to the Acts of 1862 and 1864; but I have added to those notes whenever I have considered it necessary to do so, and I have intro-

duced all the decided cases on the Acts since the publication of Mr. Lumley's last Edition in the year 1870.

The Valuation (Metropolis) Act, 1869, formed part of the Second Edition of my Work on the Metropolitan Poor Acts, which was published in 1869. It has been long out of print, and a Work on the subject being much needed, I have revised my notes to the last Edition, and have added to them such new matter as my experience as a member of the assessment committee of an important metropolitan parish enabled me to supply, and also all the decided cases on the Act.

The Rating Act of 1874, which abolished certain exemptions from rating in the Act of the forty-third Elizabeth, and extended the liability to be rated to local rates to plantations, woods, rights of sporting, and to mines of every kind not mentioned in the Act of Queen Elizabeth, forms a necessary portion of a Work on Parochial Valuations, and that Act has accordingly been included in this Work, with notes and decided cases on the new law which it contains.

The Appendices contain Mr. Paulet Scrope's Parochial Assessments Act of 1836, the Sunday

and Ragged Schools Exemption Act, and the Orders and Circulars of the Poor Law Board on the several Acts, as well as the Orders of the General Assessment Sessions under the Valuation (Metropolis) Act, 1869.

A Memorandum on the subject of the Parochial Assessments Bill of 1862, which resulted in the Union Assessment Committee Act, 1862, concludes the Work.

W. C. G.

4, Garden Court, Temple,
1*st August*, 1881.

TABLE OF CONTENTS.

THE UNION ASSESSMENT COMMITTEE ACT, 1862.

25 & 56 VICT. CAP. 103.

An Act to amend the Law relating to Parochial Assessments in England. [7th August, 1862.]

SECT.		PAGE
1.	Interprets words and gives the title of the Act	1
2.	Requires guardians of unions to form assessment committees—prescribes limits of number and proportion of both classes of guardians	2
3.	Enables town council to appoint members of the committee in any borough coterminous with the union	4
4.	Provides for neglect of appointment at the annual meeting	5
5.	Provides for supply of vacancies	5
6.	Enables committee to act when board is incomplete	5
7.	Defines the extent of the committee's authority	6
8.	Specifies the time and place of meeting, and enables guardians not members of the committee to be present thereat	6
9.	Provides the quorum of the meeting	8
10.	Requires the committee to employ the clerk or assistant clerk of the union with remuneration	9
11.	Requires the committee to keep minutes—makes the entries therein evidences of the regularity of proceedings—renders the books open to inspection, and subjects their clerk to a penalty if he refuses inspection	11
12.	Requires boards of guardians to make annual report to the Poor Law Board of the proceedings of the committee	13

SECT. PAGE

13. Enables the committee to require the overseers and other officers to make returns to them—to make extracts, and to produce to them public books and documents, and to examine persons—provides for valuations prohibited to be made public - - - - 14
14. Requires the overseers to prepare and sign valuation lists - - - - - - - - - - 17
15. Defines "gross estimated rental." - - - - 19
16. Empowers the committee to extend time for return of valuation lists—to direct valuation list to be revised—to appoint, with consent of the board of guardians, a person to value property in a parish, and to make and sign the valuation list to be delivered to the overseers 21
17. Requires the valuation list for the parish to be deposited for inspection, and to be transmitted to the committee, and to be open to be inspected and copied - 23
18. Allows overseers or persons aggrieved by the valuation list to appeal to the committee, giving due notices - 25
19. Requires the committee to hold meetings for hearing objections, and to decide the same after due notice, and enables them to hear and determine the same where no notice shall have been given - - - 26
20. Empowers the committee to alter and correct the valuation list, and, with consent of the guardians, to appoint a valuer to enable them to do so, and requires them to approve of the valuation list when corrected 29
21. Requires the list, when altered by the committee, to be re-deposited, and dealt with as before, and to be finally approved of - - - - - - - 32
22. Requires the committee to alter the list according to the alteration made by the sessions on the appeal of a ratepayer - - - - - - - - - 34
23. Provides for the custody of the approved valuation list and its production - - - - - - - 36
24. Declares that the valuation list when approved and delivered, shall be the valuation in force in the parish, except in parishes governed by local Acts - 37
25. Requires the overseers to make supplemental valuation lists in regard of new, altered, or divided rateable property - - - - - - - - - 38

SECT. PAGE

26. Enables the committee, from time to time, on the application of a person aggrieved, or on their own judgment, to order a new valuation list to be made in substitution of the former list of the whole of the parish, or a partial one as a supplemental list, and to give all such directions in relation thereto as they can give in relation to the first valuation list - - 40
27. Extends all the provisions applicable to the first valuation list to the new or supplemental list - - 42
28. Requires the poor rate to be conformable to the valuation approved and delivered to the overseers—alters the declaration provided by the 6 & 7 Will. 4, c. 96, to be signed at the foot of the rate—provides for alterations in the rateable hereditament subsequent to the approval - - - - - - - - 42
29. Exempts parishes where poor rate is made, under any local Act, from the operation of the last section - 46
30. Requires the valuation list, when approved for all the parishes, to be adopted as the basis for the contribution to the common fund—provides that money paid by the government for the property held by the government shall be added to the total value of the rateable value of the parish - - - - - 46
31. Requires the committee to cause a copy of the valuation list to be deposited in the board room of the union, and to be open to inspection - - - 50
32. Gives an appeal to the quarter sessions when the overseers think their parish aggrieved by any valuation list approved of by the committee, and requires the sessions to hear and determine the same 51
33. Empowers the sessions to adjourn the hearing of the appeal, and to appoint a person to survey and value the parish and report the valuation to the sessions, who are then to hear and determine the appeal - 54
34. Provides for the costs of this valuation and the appeal 5
35. Saves the rights of compounders in parishes - - 56
36. Saves all exemptions and special rules of rating the Cambridge Award Act, and the Oxford Poor Relief Act, from the operation of this Act - - - 57

SECT. PAGE
37. Enables the committee to allow compensation for returns, copies, or extracts, and other expenses - 58
38. Requires certain expenses to be charged to the common fund of the union - - - - - - - - 60
39. Provides that the expenses of the valuation and valuation lists shall be charged upon the poor rate of the parish, or, in certain cases, upon the common fund of the union - - - - - - - - - 60
40. Imposes penalties for certain disobediences of the Act - 62
41. Provides for the orders and notices of the committee, their authentication, and service - - - - 63
42. Provides for the service of notices and statements upon the committee - - - - - - - - 64
43. Requires the poor rate to be in the form given by the 6 & 7 Will. 4, c. 96, and requires, except in parishes under local Acts, the rate to show the rateable value according to the valuation list - - - - 64
44. Reserves all existing powers for the assessment and collection of the poor rates - - - - - 65
45. Enables Gilbert unions and unions under local Acts to obtain the benefit of the Act - - - - - 66
46. Defines the extent of the Act - - - - - 67
The SCHEDULE gives—First, the form of valuation list; second, the declaration to be signed at the foot of the rate - - - - - - - - - 68

THE UNION ASSESSMENT COMMITTEE AMENDMENT ACT, 1864.

27 & 28 VICT. CAP. 39.

An Act to amend the Union Assessment Committee Act (1862).
[14th July, 1864.]

1. Requires notice of appeal and the grounds to be given to the assessment committee twenty-one days before the session—and provides that no appeal shall be made against any poor rate made according to approved valuation list unless notice of objection shall

SECT. PAGE

have been given to the assessment committee, and just relief shall not have been obtained—requires the committee to hear the objection—empowers them to call for and alter the valuation list, and if they amend it to give notice to the overseers, who shall amend the current rate - - - - - - - - 70

2. Enables the committee, with the consent of the guardians of the union, to appear as respondents to the appeal, in the name of the guardians - - - - 77
3. Provides for the costs of the committee in such appeals 78
4. Requires valuations to be in writing, with particulars, and renders them open to inspection - - - 79
5. Requires notice of the values of the property of railways and other public companies set out in the lists to be transmitted to them by the committee - - 80
6. Removes the disqualification of justices at the sessions in appeals against the poor rates - - - - - 80
7. Provides compensation to overseers for expenses incurred by them in and about the valuation lists—prohibits the charge of expenses for valuations made without previous consent of the committee - - - - 81
8. Enables boards of guardians, with consent of poor law board, to borrow money for the expenses of the valuations, and provides for the charge of the loan - - 83
9. Requires the clerk of the assessment committee to furnish the clerks of the peace with the totals of the values of the parishes in the valuation lists - - 84
10. Enables the assessment committee, with consent of guardians, and the order of the poor law board, to procure a map or plan of any parish - - - - - 84
11. Imposes penalties on overseers wilfully omitting to make the declaration, or making the same falsely - - 85
12. Incorporates the provisions, and interpretations of the former Act - - - - - - - - 86
13. Gives the title to this Act - - - - - - - 86

THE UNION ASSESSMENT ACT, 1880.

43 VICT. CAP. 7.

An Act to extend the Union Assessment Committee Acts to single Parishes under separate Boards of Guardians. [19th July, 1880.]

SECT.		PAGE
1.	Gives short title to Act - - - - - -	87
2.	Applies section 45 of 25 & 26 Vict. c. 103, to single parishes under separate boards of guardians - -	88

THE VALUATION (METROPOLIS) ACT, 1869.

32 & 33 VICT. CAP. 67.

An Act to provide for uniformity in the assessment of rateable Property in the Metropolis. [9th April, 1869.]

1.	Act to be construed as one with 25 & 26 Vict. c. 103, and 27 & 28 Vict. c. 39 - - - - - -	89
2.	Short title - - - - - - - -	89
3.	Extent of Act - - - - - - - -	89
4.	Definitions - - - - - - - -	91
	Assessment Committee	
5.	Election of assessment committee in single parish where there is a vestry - - - - - -	94
	Making of Valuation Lists.	
6.	Making of valuation lists - - - - - -	98
7.	Valuation lists to be dealt with under 25 & 26 Vict. c. 106, ss. 17 to 21 - - - - - -	98

SECT. PAGE

8. Duplicate sent to surveyor of taxes - - - - 98
9. Notice to occupier of alteration of value, &c. - - 99
10. Notice to state time and mode of objection - - - 99
11. Grounds on which persons may object before assessment committee - - - - - - - - 99
12. Surveyor of taxes, &c., may inspect, copy, and object to the valuation list - - - - - - - - 100
13. If overseers do not transmit list, committee to appoint a person to do so - - - - - - - 100
14. Valuation list to be revised, certified, and sent to overseers, &c. - - - - - - - - 101
15. Deposit of duplicate of list in each parish - - - 101
16. Deposit of list at office of the managers of metropolitan asylum district - - - - - - - 102
17. Printing and distribution of totals of gross and rateable value in valuation list - - - - - - 102

Appeals.—Special Sessions.

18. Holding of special sessions to hear appeals - - - 103
19. Persons entitled to appeal to special sessions - - 103
20. Extent of jurisdiction of special sessions - - - 104
21. Powers of special sessions - - - - - - 105
22. Notice by special sessions of time of sitting - - - 105

Appeals.—Assessment Sessions.

23. Court of general assessment sessions - - - - 103
24. Appointment of members of general assessment sessions - 106
25. Officers of general assessment sessions - - - 107
26. Chairman, quorum, and powers of general assessment sessions - - - - - - - - - 107
27. Orders as to proceedings and recognizances on appeals - - - - - - - - - 108
28. Fees on appeal under Act - - - - - - 108
29. Places for hearing appeals - - - - - - 109
30. Public notice of times of holding courts to be given - 110
31. Summons of certain officers as witnesses - - - 110
32. Persons entitled to appeal to assessment sessions - - 111

SECT. PAGE

Proceedings on Appeals.

33. Notice of appeal to special or assessment sessions - - 112
34. Sessions to hear and determine appeals and alter list accordingly - - - - - - - - - 113
35. Making of valuation list where none approved - - 114
36. Assessment sessions may on application of party to appeal, order valuation - - - - - - - 114
37. Adjournment to receive valuation list or valuation - 115
38. Valuation to be in writing, persons making to have power to enter - - - - - - - - - 115
39. Costs of appeal - - - - - - - - - 116
40. Appeal from decision of assessment sessions on points of law - - - - - - - - - - 117
41. Notice of alteration of list to be sent to overseers - - 118

Times for Proceedings.

42. Time within which proceedings in making valuation list are to be done - - - - - - - - 118

Effects of Valuation List..

43. Duration of valuation list - - - - - - 122
44. Rate to be levied notwithstanding appeal - - - 123
45. Valuation list to be conclusive for purposes of certain rates, taxes, and qualifications - - - - 123

Revision of Valuation List.

46. Mode of revising valuation list - - - - - 126
47. Provisions for valuing a house built between the times at which the valuation list is made - - - - 128

Expenses.

48. Costs of appeal, &c. - - - - - - - - 132
49. Inland revenue may make allowances for expenses of Act 133
50. Expenses - - - - - - - - - - 133

SECT. PAGE

Rules for formation of Valuation List.

51. Form and contents of valuation list - - - - 134
Manner of charging certain properties, &c. - - - 134
Ecclesiastical dues - - - - - - - 134
Manors - - - - - - - - - 134
Fines - - - - - - - - - 134
Other profits from lands - - - - - - 135
52. Deductions for rateable value - - - - - 135
53. Amount of gross value specified by the surveyor of taxes to be inserted, unless disproved - - - - 135
54. Saving of exemptions and exceptional principles of valuation - - - - - - - - 135

Returns.

55. Occupiers to make returns - - - - - - 136
56. Surveyor of taxes to supply notices and forms for returns to overseers, who are to serve them - - - - 136
57. Assessment committee may require returns from owner and occupier - - - - - - - 137
58. Penalty for no or false returns - - - - - 137

Miscellaneous.

59. Provisions for cases where no guardians and where no overseers - - - - - - - - - 138
60. Provision where vestry are the overseers - - - 140
61. Guardians may appoint a paid valuer to assist the assessment committee - - - - - - - 140
62. Assessment committees and overseers may give security for costs of valuation - - - - - - 141
63. Use of public room for appeals, &c. - - - - 141
64. Evidence of valuation list, &c. - - - - - 142
65. Service of notices, &c., by post, &c. - - - - 142
66. Publication of notices by overseers - - - - 143
67. Inspection, &c., of documents deposited with rate books - - - - - - - - - - 143
68. Valuation lists to be equivalent to rate books of parish- 144

SECT. PAGE
69. Ratepayer, &c., may inspect documents, &c., in hands of clerk of managers or assessment committee - 144
70. Owner where rated to be in position of occupier - 145
71. Amendment of error in rate by two justices - 146
72. Omissions from the rate - 146
73. Form of rate and declaration - 147
74. Amendment of 25 & 26 Vict. c. 103, s. 11 - 147
75. Savings of powers to value property not included in a valuation list - 148
76. Separate assessment of houses for purposes of house duty, income tax, and Licensing Acts - 148

Repeal of Acts.

77. Repeal of Acts herein described - 148
First schedule - 150
Second schedule - 150
Third schedule - 152
Fourth schedule - 154
Fifth schedule - 155

THE METROPOLIS MANAGEMENT ACTS AMENDMENT.

38 & 39 Vict. Cap. 33.

An Act to amend the Metropolis Management Acts.
[29th June, 1875.]

1. Metropolitan Board of Works to make abatement on assessment of parts of metropolis containing property, except for sewers rate - 160
2. Totals of value of property so exempt to be inserted in valuation list - 160
3. Totals to be printed - 161
4. Appeal in case of unfairness, &c. - 161

THE RATING ACT, 1874.

37 & 38 VICT. CAP. 54.

An Act to amend the law respecting the liability and valuation of certain property for the purpose of rates.

[7th August, 1874.]

SECT.		PAGE
1.	Short title of Act	162
2.	Extent of Act	162
3.	Abolition of certain exemptions from rating	162
4.	Valuation of land used as plantation	163
5.	Deduction of rate by tenant of plantation, &c,	165
6.	Valuation and rating of rights of shooting, &c.	166
7.	Gross and rateable value of tin, lead, and copper mines	168
8.	Deduction of rate by tenant of mine	171
9.	General provisions as to deduction of rates	172
10.	Liability of property to local rates as well as poor rates	173
11.	Commencement of Act	173
12.	As to provisions of Sanitary Acts	173
13.	Saving as to mine where dues payable in kind	174
14.	43 Eliz. c. 2, as to saleable underwood	174
15.	Definitions of terms	175

APPENDIX I.

6 & 7 WILL. 4, CAP. 96.

An Act to regulate parochial assessments [19th August, 1836] - - - - - - - - - - 177

APPENDIX II.

32 & 33 VICT. CAP. 40.

An Act to exempt from rating Sunday and Ragged Schools [26th July, 1869] - - - - - - - 185

PAGE

APPENDIX III.

Order of Poor Law Board [3rd March, 1871] - - - 187

APPENDIX IV.

Circular letter of the Poor Law Board upon the Act of 1862 [17th October, 1862] - - - - - 190
Circular letter of the Poor Law Board relative to the supplemental valuation lists [1st March, 1864] - - 200
Circular letter of the Poor Law Board upon the Act of the session 1864 [17th August, 1864] - - - - 202

APPENDIX V.

COURT OF GENERAL ASSESSMENT SESSIONS.

Order of court [23rd June, 1870] - - - - - 208
Ditto [23rd January, 1871] - - - - 214
Ditto [30th October, 1876] - - - - - 215

APPENDIX VI.

Memorandum on the Parochial Assessments Bill of 1862 - 217

TABLE OF STATUTES.

	PAGE
43 Eliz. c. 2 ...	... 65
——— s. 7 ...	... 35
16 Geo. 2, c. 18 ...	lix, 81
17 Geo. 2, c. 3, s. 1	24, 143
——— s. 2	... 24
——— c. 38 ...	35, 77
——— s. 4	26, 71
——— s. 13	... 37
20 Geo. 2, c. 42, s. 3	... 67
17 Geo. 3, c. 38 ...	... 65
22 Geo. 3, c. 83 ...	... 67
33 Geo. 3, c. 55 ...	... xliii
41 Geo. 3, c. 3, s. 6	... 77
——— c. 23 (U.K.)	35, 65
——— s. 6	... 26
43 Geo. 3, c. 101 ...	... 155
48 Geo. 3, c. 55 ...	... 155
54 Geo. 3, c. 170, s. 11	... 65
57 Geo. 3, c. 25 ...	... 155
58 Geo. 3, c. 69, s. 6	36, 63
59 Geo. 3, c. 12 ...	... 18
——— s. 19	... 56
——— ss. 20, 23	65
9 Geo. 4, c. 43 ...	... 105
10 Geo. 4, c. 44	125, 150, 156
——— s. 23	... 124
——— s. 25	... 124
2 & 3 Will. 4, c. 84	... 65
3 & 4 Will. 4, c. 30	65, 186
——— c. 90, s. 9 ...	45
4 & 5 Will. 4, c. 76	... 47
——— s. 40...	50
——— s. 109	1
5 & 6 Will. 4, c. 50, s. 27	44, 175
——— c. 69, s. 7 ...	55
——— c. 71	... 20
——— s. 64 ...	15
6 & 7 Will. 4, c. 96	26, 65, 156, 177
——— s. 1	... 163

	PAGE
6 & 7 Will. 4, c. 96, s. 2 ...	41
——— s. 3	43, 45
——— s. 4 ...	115
——— s. 6 ...	78
——— s. 7 ...	77
1 Vict. c. 45, s. 2 ...	24, 143
3 & 4 Vict. c. 89 ...	... 65
4 & 5 Vict. c. 48 ...	... 65
5 & 6 Vict. c. 35	... 16, 124, 126, 150, 156
——— s. 60	... 165
——— c. 55, s. 60	... 134
——— c. 57, s. 12	... 6
——— s. 14	5, 22
——— s. 15	lx, 81
——— s. 16	... 59
6 & 7 Vict. c. 36 ...	... 65
7 & 8 Vict. c. 101, s. 33	... 23
——— s. 42	... 125
——— s. 59	... xliii
——— s. 61	... 65
——— s. 62	... 65
8 & 9 Vict. c. 111 ...	... xxv
10 & 11 Vict. c. 16, s. 55	12, 13
11 & 12 Vict. c. 43	111, 146
——— s. 27...	116
——— s. 30...	109
——— c. 110, s. 7...	42
12 & 13 Vict. c. 14	... 65
——— c. 45, s. 1	53, 72
——— s. 5	56, 77
——— s. 11...	117
——— s. 18...	116
13 & 14 Vict. c. 21	... 53
——— c. 57	93, 110, 141
——— s. 7	18, 37
——— c. 99	56, 65
14 & 15 Vict. c. 36	... 124, 126, 150, 156
——— c. 39	... 65

PAGE

14 & 15 Vict. c. 105, s. 2... 2
15 & 16 Vict. c. 81 44, 52, 84, 125, 150, 156
——— s. 7 15, 17
——— s. 9 ... 22
——— s. 18 ... 54
——— s. 19 ... 56
——— s. 26 ... 124
16 & 17 Vict. c. 34 ... 157
——— c. 97 s. 35... 65
17 & 18 Vict. c. 104, s. 4 30, 65
——— c. 105, s. 2... 65
18 & 19 Vict. c. 120 112, 157
——— s. 250 90
——— c. 128 ... 65
20 Vict. c. 19 91
20 & 21 Vict. c. 64 ... 157
21 & 22 Vict. c. 33 ... 157
22 & 23 Vict. c. 49 ... 59
——— s. 3... 84, 179
23 & 24 Vict. c. 112 49, 65
24 & 25 Vict. c. 55 lix, 48
——— c. 125 ... 37
25 & 26 Vict. c. 82 65, 184
——— c. 102 ... 157
——— c. 103 ... 1
——— c. 105, s. 10 97
26 & 27 Vict. c. 33. s. 22... 16
——— c. 65, s. 26 65
27 & 28 Vict. c. 39 ... 70
——— c. 79 ... xliv
29 & 30 Vict. c. 64 ... 158
——— c. 78 lxiv, 44, 158

PAGE

29 & 30 Vict. c. 113, s. 18 91
30 Vict. c. 6, s. 62 ... 109
——— s. 66 ... 139
——— s. 67 ... 140
——— s. 68 ... 140
30 & 31 Vict. c. 106, s. 10 171
——— s. 15 48
31 & 32 Vict. c. 109 45, 124
——— c. 110, s. 22 49
——— c. 122 ... 158
——— s. 4 67
——— s. 29 78
——— s. 30 34
——— s. 31 10, 37
——— s. 32 31
——— s. 38 39
——— s. 39 65
——— s. 40 65
32 & 33 Vict. c. 40 65, 185
——— c. 41 56, 65, 68
——— s. 4 92
——— s. 13 25, 104
——— c. 45, s. 6... 83
——— c. 67 ... 89
33 Vict. c. 4, s. 2 138
35 & 36 Vict. c. 77, s. 10 170
——— c. 79 ... 173
37 & 38 Vict. c. 54 ... 162
38 & 39 Vict. c. 33 ... 159
——— c. 55, s. 211 44, 174
43 & 44 Vict. c. 7 ... 2, 87
——— c. 19, s. 39 ... 24

TABLE OF CASES.

PAGE

Barnes *v.* Grant 45
Bell *v.* Crane 185
Bennet, *re* lxx

Chaloner *v.* Bolckow ... 172
Chorlton Union Assessment Committee *v.* The Chorlton Overseers 33
Crawshay *v.* Morgan lxxxix

Devonshire (Duke of) *v.* Barrow Hæmatite Steel Co. 172

Edwards *v.* Hatton lxxi, 45
Eynsham, *Ex parte* ... 8
Eyton *v.* Mold 164

Fitzharding *v.* Pritchett ... xcix

Great Eastern Railway Co. *v.* Haughley ... xcix, ci

Hackett, appellant, Long Bennington, resp. lxix, 21
Harter appellant, Salford, respondent lxxii
Hayward, appellant, Brinkworth, respondent ... lxxi
Hill *v.* Hippesley 59
Hilton *v.* Bowes lxxxi
Hillowell *v.* Eastwood lxxxiii

Ilkley Hospital *v.* Ilkley lxxvi

Kenrick *v.* Guilsfield ... 168

Lancashire JJ. *v.* Cheetham xcv
Lawrence *v.* Tolleshunt ... xliii

PAGE

Lefeuvre *v.* Miller... ... 119
Leicester Waterworks Co. *v.* Nuttall 32
Leicester Waterworks Co. *v.* The Assessment Committee of the Barrow-on-Soar Union 32
Lincoln *v.* Holmes ... xcv
Liverpool United Gas Co. *v.* Everton 75
Llandiloes and Newtown Union *v.* Bryce Jones ... 78

Malden *v.* Kingston xcvii, 19
Mason, appellant, Bibby, respondent 64
Mersey Docks, &c., *v.* Jones lxxiii, lxxvi, xc, xciv, cii
Morgan, appellant, Parry, respondent 18

North Eastern Railway Co. *v.* Scarborough Local Board 44
Nuttall *v.* Sheffield ... 32

Ormerod *v.* Chadwick ... 24

Priestley *v.* Watson ... 77

Rawlence *v.* Hursley Union 80
Reg. *v.* Battle ... xcvii
Reg. *v.* Bedminster Union 73
Reg. *v.* Biggleswade ... 75
Reg. *v.* Bilston ... lxxx, xcvii
Reg. *v.* British Hospital Asylum lxxvi
Reg. *v.* Calthorp 48

	PAGE
Reg. *v.* Castleton ...	...lxxii
Reg. *v.* Chorlton ...	... 34
Reg. *v.* Chorlton-upon-Medlock ...	 82
Reg. *v.* Chorlton-on-Medlock	33
Reg. *v.* Christchurch, Spitalfields ...	 8
Reg. *v.* Cobbe ...	... 79
Reg. *v.* Cumberledge	... 82
Reg. *v.* Derbyshire, JJ.	... 73
Reg. *v.* Dodd ...	...lxxx
Reg. *v.* Edmonds ...	... 34
Reg. *v.* Fordham ...	... 119
Reg. *v.* Goodchild...	xliii, cii
Reg. *v.* Great Western Railway Co. ...	... 71, 76, 77
Reg. *v.* Griffiths ...	... 8
Reg. *v.* Hall Dare	l, lxxx
Reg. *v.* Hammersmith	... 58
Reg. *v.* Huntley ...	... 116
Reg. *v.* Ingall ...	... 119
Reg. *v.* Lancashire, JJ.	... 72
Reg. *v.* Lapley ...	... c
Reg. *v.* Lee ...	lxxxii
Reg. *v.* Liverpool, Recorder of ...	 75
Reg. *v.* Llantrissent	... c
Reg. *v.* Malden ...	18, 19
Reg. *v.* Metropolitan Board of Works ...	... xcvi
Reg. *v.* Oldham ...	... xcv
Reg. *v.* Postmaster-General	49
Reg. *v.* Rhymney Ry. Co.	xcviii
Reg. *v.* Richmond...	60, 62
Reg. *v.* Rochester...	... 119
Reg. *v.* Sherwood ...	... cii
Rex *v.* Shropshire, JJ.	... 28
Reg. *v.* Stonebeck Down	... 60
Reg, *v.* Thurlstone	...xcviii
Reg. *v.* Wells ...	... ci
Reg. *v.* Williams ...	xcviii
Reg. *v.* Wiltshire, JJ.	... 76
Rex *v.* Foleshill ...	... 171
Salford *v.* Salford, JJ.	... 73
Sunderland-near-the-Sea *v.* Sunderland Union	... 68
Sunderland Overseers, appellants, Sunderland Guardians, respondents	lxxix, 57
Talargoch *v.* St. Asaph	... xcvi
Van Mining Co. *v.* Llanidloes	174
Watkins *v.* Milton, next Gravesend ...	... xcvi
Walsall *v.* London and North Western Railway Co. ...	 73
Wheeler *v.* Barrington	... xlii
Williams *v.* Bedminster Union Assessment Committee ...	 72

INTRODUCTION TO THE UNION ASSESSMENT COMMITTEE ACT, 1862.

The first observation to be made upon the statute which is the subject of this work is, that it makes no alteration in the principle of assessing the poor rate. That principle, as expressed in the statute 6 & 7 Will. 4, c. 96, is strictly preserved. Neither is there any alteration in regard to the persons to make the rate, the authority to allow it, nor the mode of its collection. It is still to be made by the overseers, to be allowed by the justices, and to be collected by the overseers, assistant overseers, or collectors. And, lastly, no change is made in the district for which the rate is to be assessed and collected. Where the poor rate was made for a parish, a township, or a chapelry, it will continue to be made for the same locality.

But the object of the new Act is to enforce the law of 1836, which was passed to effect the correct assessement of all rateable property, and which propounded a definition of the rateable value of property the subject of parochial assessment. The definition therein laid down, if scrupulously attended to, was such as would have ensured not

only uniform and correct valuation in individual parishes, but fair and equal valuations of parishes as between themselves.

This statute, however, though attended with a very beneficial result in the extinction of the loose, irregular, and varying practices which had long prevailed in the assessment of the property in parishes, and in supplying a form in which the assessment was to be drawn out, has not produced that great general uniformity in the assessments of parishes which for many purposes has become requisite.

It has often been pointed out that the definition which is given in the 1st section of the statute 6 & 7 Will. 4, c. 96, is expressed in terms which admit of a double construction. Hence, as in two parishes the statute may be construed differently, there will necessarily arise a difference in the rule applied to both, and consequently a difference in the result. As regards the ratepayers in each parish no complaint can be made, because the same construction will be extended to all of them, but when the two parishes are compared together the difference in their principle of assessment will appear. Again, the statute was defective in securing the due assessment in another respect. The assessment, though accurately calculated, may be reduced by a general and uniform deduction under the action of the vestry or the mere will of the overseers. As that deduction will be uniformly applied no ratepayer has a special grievance, and consequently has no motive or inducement for appeal.

The statute required, indeed, that before any rate could be allowed the overseers should sign a declaration that the particulars specified in the columns were true and correct, so far as they had been able to ascertain them, to which end they had used their best endeavours. It is obvious that this is a mere formal statement, and as such it has ever been treated. The overseers signed it as a mere form, and there was no provision for testing its accuracy, or punishing them if they signed it with full knowledge of its falsehood.

Again, the statute contained a mode whereby the overseers might obtain a valuation by a competent professional person of all the rateable property in their parish for the purposes of the poor rate, yet there was no compulsion upon them to act upon the valuation when so made, if in their own opinion the valuation was not satisfactory. Hence often when the valuation was made and the amounts of the property of influential ratepayers were raised by it, the valuation was voted inexact, or wrong, and the overseers either willingly, or by compulsion, laid it aside.

It has, therefore, long been a subject of general complaint that there was a great default in reference to the uniformity and equality of parochial rating when parishes came to be compared together for any common purpose. Accordingly, in 1845, an Act was passed to enable a correct valuation of parishes to be obtained for their assessment to the county rate. By the 8 & 9 Vict. c. 111, the justices in the several counties were empowered

to form committees from themselves, who were enabled by the provisions of the statute to take such measures as would ensure a correct and fair valuation of all the parishes in their respective counties for the basis of the county rate. This statute was repealed in 1852, but its provisions were re-enacted, with further powers, by the statute 15 & 16 Vict. c. 81. These statutes, though very generally acted upon, have not been carried into effect in all the counties of England and Wales. Moreover, they only provided for the gross values of parishes, and though the gross rateable value of a parish cannot be properly ascertained without a due estimate of all the separate rateable tenements in it, it is not to be expected that the committees of justices would generally engage in the minute investigation required for perfect accuracy in all the parishes in their counties.

Again, it is to be observed that this valuation, however correct it may have been, was only proposed for the county rate assessment. There was no obligation upon the overseers to follow it when preparing their assessments for the poor rate.

In boroughs, indeed, where a borough rate is levied upon all the parishes in the borough, and the basis should be a fair and equal scale, the law supplied no adequate means whereby the town council who laid it could obtain the just basis.

In 1850, Sir George Cornewall Lewis, then M.P. for Radnor, introduced a bill into the House of Commons for effecting a change in the system of valuing property in parishes. He proposed that

in every county there should be appointed different committees, or boards of justices, who should sit, and carefully and accurately ascertain and determine the values of the several rateable hereditaments in the parishes comprised in the districts for which they were to be appointed; and when they had done so, the poor rate was to be made according to such values. This bill was not, however, proceeded with; but in the same session of parliament Lord Portman moved for a committee of the House of Lords upon the laws relating to parochial assessments, which sat for a considerable time, and examined many witnesses. The committee recommended, among other matters, that the justices at quarter sessions should appoint committees of justices to examine the assessments of parishes in districts; and they also recommended further measures by which committees of ratepayers might be appointed by the vestry to assist the overseers and surveyors by the justices in petty sessions.

This report was presented to the House of Lords, and thence to the public, the bill of Sir George Lewis was dropped, and nothing further was done in reference to any proposal of a general character for the object of uniform assessments until the discussions on the late reform bills arose. As the new franchises, which depended upon the rateable value of property, were discussed, reference was made to the great want of uniformity which prevailed in the assessment of properties in different parishes. A committee which was appointed, in

1860, by the House of Lords, to inquire into the probable result of the proposals for reducing the franchise, examined a great many witnesses on the subject of the discrepancies which existed in the ratings of different parishes, and referred to it in their report. With the view of obviating these objections, Sir George Lewis, then being Secretary of State for the Home Department, had introduced again in 1859 the bill which he had laid before the House of Commons in 1850. It was, however, only introduced at the close of the session, and was printed for consideration during the then following vacation. When parliament met in 1860 the bill was again produced, and referred by the House of Commons to a select committee. It appears that this committee gave but little attention to the bill. The proposals for parliamentary reform were postponed, if not abandoned, and there was no demand for this measure in any part of the country. The committee, however, were not altogether idle in the matter. They came to the determination that the justices of the peace would not form effective Assessment Committees, and determined that the board of guardians would supply better committees. The bill was therefore altered in accordance with their decision, and the committee reported to the House of Commons that if a bill similar to that then before them should be introduced into the house next session, and should be read a second time, it should be referred to a select committee for consideration.

At the commencement of last session Sir George Grey, then Home Secretary, and the Honourable

Mr. Villiers, President of the Poor Law Board, brought forward a bill in the form as amended by that committee. It was read a first and second time, and then referred to another select committee, which sat for several weeks, Mr. Villiers being the chairman.

The bill now, however, attracted much attention. It had been proposed in all these bills to repeal the statute 6 & 7 Will. 4, c. 96, and renew the definition of rateable value. In the first bills, the definition given in that Act was mainly renewed, but in the last bill an attempt was made to introduce another, with the hope of removing the ambiguity which exists in the present law. This, however, raised a considerable amount of excitement and opposition. The definition proposed in the new bill was not palatable to many persons, and to others, especially to the railway and canal interest, it was obnoxious, partly as not being so advantageous to the occupiers of that kind of property as the existing law, and partly because those interests had proposals of their own which they wished to urge upon the legislature.

The committee at once yielded to this opposition, and withdrew this definition from the bill.

But the rest of the measure had become of much more importance than on former occasions, by reason of the new law passed in the previous year for altering the basis of the contributions of parishes in unions to the common fund. By the statute 24 & 25 Vict, c. 55, s. 9, it was provided that the contributions to that fund should be based upon the annual rateable value of the several parishes

comprised in the union, and not as theretofore, upon the amount of the pauperism of those parishes. To avoid controversy, the guardians were referred to the county and borough rates' assessments, as guides for them in calculating the contributions.

It however became evident that these were not correct guides, that in many counties there had been no accurate valuation of the several parishes for the purposes of their county rate, that much laxity existed in this respect, even where the valuations had been made, and that where unions comprised parishes in separate counties, or some in boroughs and some in counties, the law aforded no means of providing a uniform adjustment of the rateable values of the property over the whole of those unions.

Hence it was found that the measure not only excited much attention, but was largely approved of by those who were interested in this subject.

The Poor Law Board circulated the bill among the different unions throughout the country for their opinion upon it (*a*), and although several boards of guardians expressed doubts as to their being able to undertake the labours of the proposed committee, and others preferred to continue under the system then existing, the large majority of those boards that responded to the invitation of the board, gave an unqualified approval of the spirit and object of the measure.

(*a*) See Appendix VI., *post*, p. 216.

The committee therefore proceeded with great care and attention to consider and mould the details of the bill, and ultimately recommended it to the House of Commons with their amendments. One important amendment was introduced by them to obviate a formidable opposition which was threatened. The bill proposed that in all unions an Assessment Committee should be formed which should revise the valuations of all the parishes in the union, and when they had settled and approved of the valuation list, such list should be conclusive upon the parish officers; and that the poor rate should thenceforth be in strict conformity therewith. In this respect the committee made an alteration, by providing that in parishes where the poor rate is made under a local Act, this conformity should not be required, so that, though the Assessment Committee are to ascertain the correct valuation of the rateable property in those parishes, for the purposes of the contribution to the common fund, the authorities in those parishes who make the poor rate are not required to follow the valuation in making their rate (*b*).

When the bill was referred to the House of Commons, and that house went into committee upon it, some opposition was raised to its principle, and its details were very much debated. Some new clauses were introduced, particularly those which give an appeal to the quarter sessions

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(*b*) This is now altered in the Metropolis by the 32 & 33 Vict. c. 67.

on the part of one parish in a union against another, where the valuation approved by the Assessment Committee is stated to be unfair or incorrect. A definition of "gross estimated rental" was also introduced which it is to be feared will rather increase than diminish the difficulty that exists in the interpretation and application of that word (*a*).

Some other less important amendments were made, and ultimately the bill passed the House of Commons. A slight alteration introduced in the House of Lords neutralized a clause which had been pressed upon the House of Commons of very limited application, but calculated to work more harm than good, and the bill as so amended passed into a law.

It is not proposed to give any abstract of this Act in this place, as in the Appendix will be found the Circular Letter of the Poor Law Board, lately issued by them, in which they have explained with great minuteness so much of its details as relate to boards of guardians.

It will, however, prove of some benefit if a brief illustration be given of the proceedings to be taken under this Act by the Assessment Committees.

The board of guardians are, with as much promptitude after the passing of the Act as shall be suitable to the contingencies of their union, to appoint an Assessment Committee from among

(*a*) See *post*, p. xlviii.

themselves, consisting of guardians, partly *ex-officio* and partly elective, but so that there shall, if possible, be at least one-third of the former. They must appoint some number not less than six nor more than twelve, and fix the day and place of the first meeting of the committee.

The place will generally be the board room of the union, and the day will be settled to suit the convenience of the members of the committee. The clerk of the guardians will notify to the members the fact of their having been appointed.

At the day and place so fixed, the members of the committee having assembled must appoint some one to preside, and will doubtless appoint him to hold the office of chairman for the rest of the current year. Where the number of the committee is large, they may think it expedient to nominate a vice-chairman. The committee must next proceed to elect a clerk, who is to be the clerk or assistant clerk of the union. It will then be convenient that they should lay down some few rules for their guidance in the discharge of their duties. Their clerk, as soon as appointed, must take full minutes of the proceedings, to be entered in a minute book to be provided by the committee. They will then take a view of the state of the union as regards the number of parishes comprised in it, their extent, and the number of the rateable properties in each parish, as far as they can then ascertain, so as to bring under immediate review the extent of their labours in prospect, and thus obtain some idea of the nature of the arrangements

which they shall make for their meetings, and the attendance of the parish officers before them.

They should then direct a notice to be sent to the overseers of the several parishes in the union informing them of the appointment of the committee, directing them to make out and forward the valuation lists for their respective parishes, according to the form prescribed by the Act, to them on or before a given day, which must not be at a greater interval than three months from the appointment of the committee. The committee will doubtless not take any further step at this stage in respect of the valuation of any of the parishes, but will appoint the next meeting at such time and place as they may think expedient. This day may sometimes be in the interval before the day for the return of the lists, though it need not necessarily be so.

In the meantime the overseers having received the notice, must forthwith make out a valuation list, which they will do by copying into a book, to be purchased by them or supplied to them by the committee, the current rate, omitting the columns for the rate itself, namely, columns 12 and 13 in the usual rate books; and this copy is to be signed by them and deposited in a proper place in the parish. On the Sunday after the deposit they are to give public notice in the parish of the deposit, and the list so prepared is to be open to inspection. The overseers must also make out another copy and send it to the board of guardians of the union soon after they have made the original. At the ex-

piration of the fourteen days from the deposit, they must transmit the original list to the committee.

It is incumbent upon the overseers to revise their previous rate book, and to make such alterations as in their judgment may be necessary to render their valuation list a correct return of the rateable property in their parish.

If the overseers are dissatisfied with the state of the rate, they may apply to the committee on the day of their next meeting, or when the list should have been transmitted, to extend the time for the transmission of the list.

The committee at their second meeting must see that the minutes of their previous meeting have been duly entered and confirmed by the signature of the chairman, and must proceed to deal with the business then before them. If it be an intermediate meeting before the day for the return of the lists, they can receive applications for extension of the time, and decide thereon. They may also then consider either upon their own knowledge or upon information, whether the valuations of any parishes require revision, and if so, whether the overseers are competent to revise them. If in their opinion they are not competent, and they think it expedient that they should appoint a proper valuer, they should pass a resolution to that effect, and report the same to the board of guardians of the union for their consent.

If this be the day for the return of the valuation lists they should proceed to examine them, taking them in such order as shall be most convenient.

It will be competent for them to take those which are not objected to at this meeting, but they must appoint a future meeting for the examination of those which are objected to, and such meeting must be at least at the interval of twenty-eight days.

The committee must examine the unobjected lists with due care, and if they wish for explanation or elucidation, may send for such officers and other persons having custody of books relating to parliamentary or parochial taxes and assessments as can assist them in this matter. They must for this purpose issue their notices to the proper parties, and may, if necessary, adjourn their decision upon the list for this information. They may, however, correct the list in any particulars, inserting rateable property, if omitted, and altering the valuation of other property as they may find necessary, upon any information then supplied. But at this time also they may find it necessary to have a new valuation, and if so, they must proceed as already pointed out. It is to be observed that the persons who attend cannot be examined on oath, though they are liable to punishment if they wilfully answer falsely.

At this meeting they should direct notices to be sent to the overseers of the parishes where there are objections, informing them of the day when those objections are to be heard.

The overseers on receipt of such notice are to publish it on the following Sunday on the church door of their parish.

The resolution of the committee requiring the appointment of the valuer having been laid before the board of guardians, that board should direct special notice thereof to be sent to all the guardians of the union in writing, and appoint a day for taking it into consideration. At this day the guardians must determine whether they will or will not give their consent, and their decision must be communicated to the committee by their clerk.

If they give their consent, the committee at their next meeting should appoint the valuer, and adjourn the consideration of the valuation list until the new valuation shall be made. If they refuse their consent, the committee must proceed with their examination of the list, and form their decision to the best of their ability upon the materials before them.

The committee will often find it necessary to hold many meetings to deal with the lists where there are no objections, and can arrange for them as they find convenient; but they must attend on the day fixed for the hearing of the objections. They must then be satisfied that all the proper notices have been given to the parties interested, or, if there be any default in this matter, that it is waived. This point being disposed of, they should hear every objection, the evidence in support of it and in answer, and, according as they are satisfied, give their decision. It seems that in these cases the valuation returned in the list is *primâ facie* to be taken to be correct.

On this occasion also it will be competent for

them to have a valuation made of the whole or part of the rateable property in the particular parish, but they must, in this case likewise, proceed entirely as stated before. If any party to the appeal seek to have a valuation made, the committee or the board of guardians may fairly require some indemnity against the costs before they consent.

Of course, if a new valuation is to be made the decision of the appeal must be adjourned to a future meeting.

It must be noticed that no authority is given by this Act for the making of maps (*a*). Where a map is wanted, recourse must be had to the Poor Law Board under 6 & 7 Will. 4, c. 96, s. 3.

At the day appointed for the return of the valuation by the valuer, either in the case of the unobjected valuation list or of that which is objected to, the committee must meet and receive the same. They must then settle the valuation list of the parish according to the result, and having made all such corrections, alterations, and insertions therein as to them shall seem proper, pass a resolution approving of the same as so altered and settled.

Now, the committee may have made no alteration in the valuation list. In this case three of their members must sign their names to it, with

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(*a*) See now the provision in the 27 & 28 Vict. c. 39, s. 10, *post*, p. 84.

the date of the approval, and it is to be transmitted to the overseers (*b*), who are thenceforth to make their poor rate according to this list, until at some future time another is substituted for it.

But they may have altered it, and in this event the committee must send the list so altered to the overseers, and direct it to be deposited in the parish for the inspection of the ratepayers as the original list. They must appoint a day not less than seven nor more than fourteen days from such re-deposit for hearing objections to this altered list. The committee should direct the overseers to return the list to them at the appointed day.

It will here be observed that the interval, though short, is definite, and the committee must be careful to make their arrangements for their meetings so as to prevent failure of attendance at the proper time.

Indeed the committee will rarely be able to proceed with the revision of any of the lists in the absence of the overseers or the assistant overseer or collector of the parish, and it is therefore advisable that they should so regulate the course of their proceedings as not to require the attendance of a greater number of these officers at any time than are likely to be wanted for the business of the meeting.

At the day for hearing these last objections the

(*b*) See now the alteration made by the statute 31 & 32 Vict. c. 122, s. 30, *post*, p. 34.

overseers must return the list, and the committee must then hear and decide any objections which may be made to the alterations. It is to be expected that this can be done without much further trouble, but it may become necessary in this case to have a valuation made, and they will have power to cause this to be done if the steps already pointed out are pursued.

But when these objections are disposed of, the committee shall finally approve of the valuation list, and cause it to be signed by three members and dated, as above described. It will be returned to the overseers to be acted upon as in the case of the unaltered list (*a*).

As every list is finally approved the committee must cause a copy (*a*) of it to be made and delivered to the board of guardians for deposit in the board room or other place in the union; and when all the lists shall have been finally settled and approved of, the contributions to the common fund are to be calculated thereby.

It is not necessary now to proceed further with this detail. The statute contains provisions for supplemental and new valuation lists to be made by the committee, and for appeals to the quarter sessions against the valuation lists approved of by the committee, but it is obvious that they are not likely to require notice at the present time.

(*a*) See now the alteration made by the statute 31 & 32 Vict. c. 122, s. 30, *post*, p. 34.

The committee will have to direct their attention to the two columns in the valuation list for "the gross estimated rental" and "the rateable value." As regards both, they must refer to the 6 & 7 Will. 4, c. 96, s. 1 (in the Appendix), and as regards the former, to the 15th clause of the present Act.

Several interpretations have been given of the term "gross estimated rental" in the former Act, and it will be found that the definition given in the present Act leaves the question as before. The Poor Law Commissioners, in their letter of June 22, 1837, (see their Third Annual Report, p. 92,) gave their explanation of gross rental; but the Poor Law Board were advised by the law officers of the Crown and Mr. Tomlinson, whom they consulted in 1859, that their understanding of this term was somewhat different, and the Board communicated the interpretation which those counsel gave of these words to all churchwardens and overseers in their letter of May 9, 1859. (See their Twelfth Annual Report, p. 41).

It is to be regretted that there has been no judicial interpretation of the words, and that the definition in the new Act should not have removed the ambiguity. But if the committee adopt one interpretation, and apply it equally to all the parishes in their union, they will produce a fair, equal, and uniform result in their union, and thus effect the principal object of the new law. As there will be upwards of 600 different Assessment

Committees in the kingdom, absolute uniformity of valuations could never be expected, yet if the provisions of the Parochial Assessment Act of 1836, however interpreted, be carefully attended to, there will be a great approximation to a general uniformity in the course of a few years.

There is one subject of assessment as to which much discussion has lately occurred in the courts of law, namely, the rating of the tithe rentcharge, and it is advisable to advert to it, as it must come under the notice of the committees. The circular letters which have issued from the Poor Law Commissioners and the Poor Law Board on this subject will be remembered, and may be properly referred to by the committee in the course of their labours. The principal one is, that of the 9th May, 1859, above referred to; but it is convenient here to observe, that since that letter was issued, the Court of Queen's Bench have had occasion to lay down two propositions on the subject of the deductions claimed by the rector or vicar. First, that where the incumbent holds two distinct and separate benefices, and finds it necessary to employ a curate to enable him to discharge the spiritual duties of both, he cannot claim a deduction in respect of such curate's salary. (See *Wheeler* v. *Burmington,* 1 B. & S. 709; 31 L. J. R. M. C. 57.) Secondly, that where a district has been formed under any of the new parish Acts out of a parish, and the incumbent of the latter has covenanted to pay a stipend to the minister of the new district,

he is not entitled to a deduction in respect of the stipend so paid by him. *Lawrence* v. *Tolleshunt Knights,* 31 L. J. R. M. C. 148; 8 Jur. (N. S.) 866. These decisions to some extent modify the rules expressed by the Poor Law Board in that letter, which was framed upon the judgment of the Queen's Bench, pronounced in the case of *Reg.* v. *Goodchild,* E. B. & E. 1.

It is to be observed that the whole of this measure depends upon the conduct of the overseers in taking the steps prescribed by the Act. No penalty is imposed upon them by the Act for neglect (*a*); but, as the directions are positive and definite, if they deliberately neglect to execute them, they will be liable to prosecution for a misdemeanor in disobeying a public statute. The case would doubtless fall within the 7 & 8 Vict. c. 101, s. 59.

A great apprehension was expressed in the course of the debates on this Act, that this measure was a step in the direction of a union rating. There is nothing in the Act which at all interferes with the parochial rating, nor the charges upon it as now established. In all respects the rates of the parishes are kept separate. But if, in process of time, the number of union paupers shall so largely increase in unions

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(*a*) It has been suggested that they may be prosecuted under the statute 33 Geo. 3, c. 55, and fined 40*s. for neglect of duty.*

as to render the continuance of the distinction between union and parochial paupers unnecessary (*a*), and thus render a union rate an expedient measure, the Assessment Committee may form an instrument by which that rate may be most readily and conveniently imposed.

W. G. L.

Oct. 28, 1862.

(*a*) The 27 & 28 Vict. c. 79, has abolished the distinction between union and parish paupers, and has made them all equally chargeable upon the common fund, but it has not established *union rating*.

INTRODUCTORY NOTE

TO THE

FOURTH EDITION.

The Assessment Committees have been appointed for the different unions in a large part of the country. They have entered upon their duties in many places with great earnestness and activity. The overseers of the parishes combined in the unions are also engaged in the due discharge of the duties cast upon them by the statute. The interest kindled in all quarters is remarkable; and almost everywhere anxiety prevails to carry the object of the Act, namely, the fair and uniform valuation of property for the purposes of local rating, into complete effect.

It is, however, advisable to remark, that, though all reasonable means should be taken at once to remove the gross and startling inequalities between neighbouring parishes which have hitherto existed, it is not to be expected that a perfectly fair and just valuation can be immediately obtained. This will doubtless be the work of time and the result of some years' labour. The Act provides for such a course of action, inasmuch as it has constituted perpetual committees, and enabled them to have fresh revisions of the valuations from time to time as occasions shall render expedient. The committees therefore may properly investigate and

admit the valuations submitted to them at their first sittings if reasonably correct, although some doubt may exist as to their complete accuracy, rather than keep the operation of the Act in suspense for a long time.

It appears that some committees have not confined themselves to the duties specifically prescribed to them, namely, the receiving and investigating the lists when returned in conformity with the Act, but have deemed it expedient to take preliminary proceedings and to send forth instructions and directions to the parishes as to the general law of assessment, and as to the mode in which the overseers should make out their lists. There may be much advantage resulting from the uniformity of the returns in the particular union produced by such directions, but proceedings taken by public authorities beyond the scope of their powers do occasionally lead to inconvenience. Unfortunately the instructions thus issued by different committees do not always correspond in the interpretation of the general law of rating.

Two difficulties have arisen in the execution of the Act. First, there is no adequate provision for the expense of making the first valuation lists. The overseers are required to make them out, and, it may be, to revise the valuation hitherto used in their parish. Now the parish may be small and the number of rateable hereditaments may be very few. A very little trouble will enable the overseers to make the return, and any charge for such trouble would be ridiculous. But the parish may be large or populous, the rate book may be a full-sized volume, and the valuation hitherto acted upon may be very erroneous. The overseer cannot himself copy the list nor make the correction in

the valuation. But the Act, it is considered, makes no allowance for his trouble. He cannot charge the cost of the transcript upon the poor rates, and no authority can remunerate him. This default is met, however, by the statutory power under which an assistant overseer can be appointed with a salary. Where there is already such an officer, he will be required, according to his duties as generally assigned, to make out the list, and he can apply to the vestry for an increase of his salary for his extra labours, if they be considerable. But where there is no such officer an application may be made to the vestry, and they can make the appointment, and thereby relieve the overseers from the personal labour. The vestry may, however, refuse, and then the overseers will be left to their own resources (*a*).

In some instances the assessment committees have undertaken to make allowances to the overseers, treating their services in this matter as falling within the operations of the 37th and 38th sections of the Act. Whether this be warranted by the terms of those sections will be determined by the auditors when the accounts of the unions are laid before them. The anxiety on the part of the House of Commons to prevent reckless or unnecessary expenses in these proceedings has led to the difficulty in this matter, which to some extent, it is alleged, impedes the due working of the measure.

The other difficulty arises out of the uncertainty which prevails in regard to the true definition of "rateable value." The estimate of value under any

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(*a*) See the provision in the new statute, 27 & 28 Vict. c. 39, s. 7, *post*, p. 81.

circumstances is generally a question of doubt, but under the present statutes not only is there an additional question unnecessarily raised by the language of the legislature, but there is a duplication of questions by the requisition of two columns where only one is wanted. The purpose of the law requires the overseers to ascertain and exhibit in their rate book the annual value upon which the rate is laid. It is sufficient that this should be shown. But the statutes require not only that this should be shown, but that there should be another entry of some estimated and imaginary sum, upon which, however, the assessment is not to be laid. The definition of this sum is expressed in language that, if construed literally, will be at variance with all the generally received notions of the public, and if construed according to the opinions of interpreters, will be found oftentimes difficult of application.

Hence the committees have endeavoured to settle for themselves, or to obtain from authority such an explanation of these words "gross estimated rental" as may be adopted by them as a proper rule for general application. It is not proposed here to consider what decision may be pronounced by the Court of Queen's Bench, if the question can be brought before it. But the Poor Law Board have deemed it right to frame an answer to inquiries on the point, which has appeared in some public prints, and from which the following extract may be here conveniently introduced (*a*).

(*a*) In the Act 32 & 33 Vict. c. 67, the Metropolitan Valuation Act, the term "gross estimated rental" is abandoned, and the term "gross value" is substituted, and is defined in sect. 4, in

After adverting to the definition of "gross estimated rental" in sect. 15 of the new statute, they continue—

"In the circular which the board issued on the 9th May, 1859, with respect to the rating of tithe rentcharge, they stated that they had consulted the law officers of the Crown (consisting at that time of Sir Fitzroy Kelly, as Attorney-General, and Sir Hugh Cairns, as Solicitor-General), and Mr. Tomlinson, who expressed their opinion in the following terms, with reference to the Parochial Assessment Act, 6 & 7 Will. 4, c. 96:—

"We understand by "Gross estimated rental," mentioned in the schedule to the Parochial Assessment Act, the rent at which the property might be expected to be let free of tenant's rates and taxes, and tithe commutation rentcharge, *the tenant taking these burthens upon himself*, and we suppose that in practice the column is usually filled up, so far as regards corporeal hereditaments, with figures expressing or approximating to the conventional or rack rent, on a tenancy from year to year. After making the deduction therefrom of average repairs, &c., the rateable value of such property is arrived at.

"It appears to the board to be most advisable that the opinion thus expressed by those eminent counsel should be adopted, and followed by the overseers and

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the following terms:—"Gross value means the annual rent which a tenant might reasonably be expected, taking one year with another, to pay for an hereditament if the tenant undertook to pay all usual tenant's rates and taxes, and tithe commutation rentcharge, if any, and if the landlord undertook to bear the cost of the repairs and insurance and the other expenses, if any, necessary to maintain the hereditament in a state to command that rent.

the Assessment Committees in carrying into effect the provisions of the 25 & 26 Vict. c. 103.

"In accordance with that opinion (from which it will be observed that the word '*free*' must be considered as referring to '*rent*' and not to 'hereditaments,' as its antecedent), the sum to be entered in the column headed 'Gross Estimated Rental' in the valuation lists will be the amount of 'the rent at which the property might be expected to let, free of tenant's rates and taxes, and tithe commutation rentcharge, *the tenant taking these burthens upon himself*,' so that the column will be filled up with figures 'expressing or approximating to the conventional or rack rent, on a tenancy from year to year.'

"If this be done, the 'rateable value' will be readily deduced from the 'gross estimated rental,' by deducting the cost of repairs and insurance, and the other expenses, if any, necessary to maintain the property in a state to command the same rent."

It will be seen that the meaning thus expressed is obtained from the interpolation of certain words into the definition, and if that can be supported the whole will be clear (*a*).

(*a*) In *Reg.* v. *Hall Dare*, 5 B. & S. 796, SHEE, J., says, "I understand the words, 'free of all usual tenants' rates and taxes, and tithe commutation rentcharge, if any,' as meaning, 'without regard to,' or 'putting aside,' all rates and taxes which fall on the tenant, and tithe commutation rentcharge, and then are to be deducted the average annual cost of repairs and insurance, which the landlord must pay, unless there be an agreement with the tenant otherwise, as well as all other expenses necessarily incurred by the landlord, in order to enable the property to command the assumed rent." This, however, is only to obtain the *rateable value*. It does not give the meaning of *gross estimated rental*, and it is obvious that no rent can be calculated

Many committees, with the view of facilitating their own labours, and indeed to give due order to their proceedings, have determined upon certain general scales of deductions to be made in respect of repairs, according as the allowances for that item are to be applied to different classes of rateable property, such as agricultural land, ordinary buildings and erections, or manufacturing and engineering works. With the laudable object of ensuring general uniformity, deputations from different unions have met together at some place in the same county, and other general districts, and have come to some common agreement upon these scales.

Doubtless, much convenience, and, perhaps, general satisfaction, will result from their adoption. But it must be remembered that the application of the general rule may not always be fair or just in reference to particular properties; and then the ratepayers will have their appeal to the sessions, and in their cases the valuation may be altered. A cautious and deliberate application of these scales may therefore be found ultimately to be more prudent than an indiscriminate and undeviating one (*b*).

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without taking into consideration the rates and taxes to which the tenant will be liable.

(*b*) See in the Parliamentary Return, No. 116—I., 1864, referred to in p. lxvi., *post*, an Abstract of the Scales of the Deductions in the different Counties. And in the Report upon Electoral Statistics presented to Parliament early in the session of 1866, will be found the Scales of Deductions allowed by Assessment Committees in the several boroughs mentioned in that Report.

It will be now found that in the Act which provides for the valuation of property in the metropolis, 32 & 33 Vict. c. 67, the

Many other topics have occurred already in the working of the Act; but those herein noticed appear to be the most worthy of special remark at present.

W. G. L.

January 1*st*, 1863.

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legislature have laid down scales of maximum allowances in reference to various kinds of rateable hereditaments.

PREFACE

TO THE

SIXTH EDITION.

The experience of the Assessment Committees in carrying into execution the provisions of the important statute which is the subject of this work, has disclosed one serious default. Though provision was made in that Act for an appeal against the valuation list supplied for any parish where the whole parish was dissatisfied, so that such appeal could be met and defended by the board of guardians, no provision was made in reference to the appeal by individual ratepayers against the poor rate made in conformity with the approved list. The right of appeal which existed under the previous law remained in full force, and between the same parties. Hence, after all the trouble and probable expense which had been incurred on the part of the Assessment Committee and others in the investigation and settling of the valuation list, the ratepayer could appeal against the rate made by the overseers in strict obedience of the statute according to the valuation settled by the committee.

To this appeal the overseers were bound to appear, but having appeared they were not bound to offer any defence in support of the rate. They might be ignorant of the grounds upon which the committee had settled the valuation list, or they might dissent from the judgment which the committee had formed upon

it, or they might, indeed, have had a personal interest adverse to that decision. Hence judgment might be given for the appellant almost by default, and the rate might be altered at the sessions, and, as a necessary consequence, the valuation list, without due explanations being rendered to the tribunal which had to decide the question.

This contingency has occurred in numerous instances and produced much natural dissatisfaction amongst the Assessment Committees. Hence, upon the opening of the present session of parliament great discontent was expressed by a large number of these committees, and a remedy was earnestly required.

The case had not been wholly neglected when the original bill was under consideration, but it was then believed that the mischief would not be so serious as it has proved to be, and apprehension was felt that if the guardians were to be required to defend the appeals against the poor rates of all the parishes in their unions, they might be involved in a most serious amount of litigation.

However, it has become apparent that unless some protection were afforded to the committee with reference to the poor rate made according to their judgment, there was great apprehension that the measure, which seemed in other respects to be very successful, would fail. Accordingly, Mr. Villiers, as President of the Poor Law Board, introduced the bill, which has since passed into a law, whereby power is given to the committee to become co-respondents in appeals against the poor rates made according to the valuation list which they have settled, and thus to defend their judgments.

It was urged in the discussion upon this measure

that it was a great anomaly, and a matter unprecedented, that a judicial tribunal should be allowed to follow and support its decisions in a court of appeal. But the real position of the parties was not duly considered.

The object of the new law is principally to obtain a correct basis for the contributions of the several parishes to the common fund of the union. This should be obtained by the board of guardians, but the duty and labour of procuring it is delegated to a committee of that board of guardians, who provide it by procuring and settling the valuation lists of the several parishes comprised in the union. They fill, with reference to the union, a position analogous to that which the parish officers do to the parish. As it is the interest of the parish that the ratepayers shall all be duly and fully assessed, so it is the interest of the union that all the parishes shall be duly and fully valued. The defence of the rate made upon the approved valuation list is consequently a matter of special interest to the guardians of the union, and not one of pure indifference to the judge, as in the ordinary case of questions litigated before the great courts of law.

The new Act, therefore, requires notice of appeal to be given to the Assessment Committee by every person aggrieved by a rate made in conformity with the approved valuation list, before his appeal to the sessions against that rate can be heard. Upon receipt of this notice the committee are empowered, if they think fit, to undertake to defend the rate by appearing as co-respondents with the parish officers. They cannot, however, do so of their own mere motion. They must obtain the consent of a majority of the board of guardians, specially summoned for this purpose.

If this consent be obtained, they may appear as co-respondents, but in the name of the guardians of the union. This is necessary, as otherwise they must have appeared personally and conjointly; so that the proceedings must have been conducted in the names of the particular guardians forming the Assessment Committee, and the judgment must have been given for or against them personally by name.

A very important restriction has, moreover, been placed upon the power of appeal, inasmuch as no appeal is to be allowed at the sessions until the party aggrieved shall have applied to the Assessment Committee, and has failed to obtain due relief from that body. The Union Assessment Committee Act provides ample means of notice for securing knowledge of the valuation list of all the hereditaments in the parish, whether original or after alteration. It was, therefore, very unreasonable that a ratepaper, having neglected all means of giving due information to the committee as to the value of his hereditament, should appeal against the poor rate, and seek to overthrow it by information or evidence which, if submitted to the committee, might have prevented them from forming the conclusion to which they had come.

It is therefore now provided that no appeal shall be had against a poor rate founded upon an approved valuation list, unless the complainant shall have given notice of his objection to the committee, and shall have failed to obtain such redress as he shall consider to be just. The committee are, however, required to hear the objection at any time, whether before or after the list shall have been finally approved. If upon the hearing of the objection, they find that the valuation previously declared is erroneous, they can alter the

valuation list, and require the current rate to be altered accordingly, so that thus the necessity for the appeal will be removed.

This requirement rendered another provision necessary. It was urged, that the committees often altered lists in the absence of the ratepayers affected by such alterations, and without their knowledge; and if they were deprived of their appeal by default of their having made objection to what they knew not of, they would be subjected to much injustice. As regards ordinary ratepayers, this objection was not deemed to be of serious consequence. It is very seldom that, either directly or through their agents, they will not have notice of the alterations made in the deposited lists. But it was considered that, in many cases, public companies, whose property may be found running through parishes where they have no agent or person interested on their behalf, may be greatly affected by the act of the committee, without their having knowledge of what has been done until it is too late to procure the redress provided by the Act.

It is therefore provided that within fourteen days after the transmission of the list to the committee, they shall give notice, through the post office, to every company mentioned and described in the Act, of the sum set down as the rateable value of the property occupied by such company.

No specific penalty is prescribed for the omission to do this, but it is not to be presumed that the committees will omit to give this notice. Upon its receipt the directors of the companies can determine whether they will acquiesce or will apply to the committee to alter the valuation.

Some dissatisfaction has been expressed at the mode

in which surveyors and valuers employed to make valuations for the committees have given in their valuations. It is urged that they do so hastily and without proper attention, or without due care and discrimination. Hence an attempt has been made to secure more authentic and trustworthy judgments from these persons. It is therefore required that the valuer shall make his valuation in writing, (as indeed was generally done,) and shall show the particulars of the several hereditaments comprised in his valuation, and the amounts at which he has valued the same respectively. Thus he must show in regard to a farm, the number of acres of pasture, of arable, of common, of garden ground and of plantations, the residence, and the farm buildings, and must show the value which he has assigned to each item separately.

He is required to sign the valuation.

It is obvious that this will secure more care, more attention, and a greater degree of responsibility on the part of the surveyor, and will render him more exposed to correction, and his estimates to be rejected, if he make an erroneous valuation, than heretofore.

To preserve the due observance of this enactment the valuation is rendered open to general inspection, and to be copied. The valuer is thus rendered liable to ready refutation if it appear that his general result has been formed upon erroneous calculations and inaccurate estimates of the details.

It is now necessary to advert to another point. Appeals against poor rates were originally made to the quarter sessions, which were held before all the justices of the county, some of whom might be interested in the particular parish, and consequently by the general rule of the common law, which has been established by

numerous decisions, such justices could not sit in judgment upon such appeals. The statute 16 Geo. 2, c. 18, which enables justices in certain cases to act in matters relating to the poor rates of the parish where they are themselves rated, nevertheless prevented them from acting at the quarter sessions in any appeal against such rates.

The statute 6 & 7 Will. 4, c. 96, s. 6, established the special sessions for the several divisions of counties at which appeals might be heard against the poor rates of the parishes comprised in such divisions. Of course, though there was no statute applicable to the case, no justice could take part at such special sessions where the rate of the parish in which he was himself assessed was in discussion.

But since the time when the 24 & 25 Vict. c. 55, came into operation, every ratepayer of a union is interested in all the rates of every parish in the union, and consequently this interest exists in reference to the valuation lists.

Every justice of the peace occupying property in a union, being a ratepayer, has a pecuniary interest in reference to every poor rate and every valuation list made for the parishes therein, and such interest, however slight and remote, operates as a disqualification. Moreover, the justices in unions are *ex officio* members of the board of guardians, and as such are parties with the other guardians in any proceedings taken by such guardians.

The pecuniary interest has therefore been pointed out in cases where special sessions have been held to hear appeals against poor rates, and the disqualification of the justices who may be ratepayers of the union has been generally, though not universally, acquiesced

in. To allow this objection to prevail would in many unions completely destroy the jurisdiction of the special sessions, inasmuch as without the *ex-officio* guardians, it would be oftentimes impossible to assemble a sufficient number of justices uninterested in the matter to constitute a competent tribunal.

It has been deemed upon the whole most advisable to retain the special sessions, and therefore provision has been made whereby this objection may be rendered unavailing.

Accordingly it is now enacted that no justice shall be disqualified from acting as a justice on an appea against the poor rate of a parish at the sessions, whether quarter or special, by reason of his being rated in some other parish in the same union. This provision, however, will not allow him to act in any matter of appeal connected with his own parish.

Another disqualification, already adverted to, would seem to arise in consequence of the provision now enacted, which enables the Assessment Committee to be co-respondents in appeals against the poor rates, because if that committee appear in the name of the guardians, the justices, who are *ex-officio* members of the board, and *à fortiori*, those who are members of the Assessment Committee, would be parties to the appeal, and as such would be incompetent to preside as judges. But this objection has been met by the 5 & 6 Vict. c. 57, s. 15, which enacted that no justice of the peace shall be disabled from acting as such justice, at any sessions, in any matter, merely on the ground that he is an *ex officio* member of the board of guardians complaining, interested, or concerned in such matter, or has acted as such at any meeting of such board of

guardians. Hence no objection on this ground could be substantiated.

Difficulties have occurred under the late Act in reference to the expenses incurred by the overseers in providing the valuation lists for their parishes. In many cases, where the rateable hereditaments were very numerous, the labour of making out the lists has proved to be very heavy, and the overseers have been physically incapable of making them out for the committee. Again, when it was necessary to have the valuation of the parish revised, professional aid was generally found to be requisite. It is probable that the legislature intended that the overseers should be reimbursed any reasonable expenses which they might incur in such proceedings. But the language used in the statute would not, as it was generally considered, justify such interpretation, and the overseers who have charged upon the poor rates expenses which they incurred in preparing their first valuation lists, have had the amount of those expenses disallowed by many auditors.

To remove this difficulty for the future it is provided, that when the vestry allow the overseers to incur certain expenses in preparing the valuation or the supplemental lists, they may charge the amount in their accounts. If they do not obtain the sanction of the vestry (*a*) they may lay the account before the Assessment Committee, and may charge the amount allowed by the committee.

(*a*) This must be qualified. If the vestry refuse to allow the expenses it does not appear that the committee can allow them.

The committee will have full means of ascertaining from inspection and personal inquiry what services have been rendered, and what would be a fair remuneration for the same.

But a restriction is imposed upon the overseers with reference to the procuring of valuations of property by them, as no expenses are to be allowed unless the committee shall have previously given their consent to the procuring of such valuation. As in most parishes the original lists have been delivered to the committees, this provision will be almost exclusively applicable to the cases of supplemental lists. When the overseers shall require any new rateable property, or any property inadequately valued in the approved list, to be valued for the purpose of these statutes, they must apply to the committee for their consent, and upon obtaining it, *but not otherwise*, they may charge the expense upon the poor rate. Moreover, this expense must be limited by the resolution of the vestry or the ultimate decision of the committee.

It appears to have been considered by the legislature in passing the Act of 1862, that the valuation lists and the valuations required to render them correct, would not be a subject of much expense, and therefore the cost was left a charge upon the current rates. Where a cursory valuation list has been accepted, and the committee have discharged their duties in a simple perfunctory manner, this has been the result. But where the committee have exercised a severe and strict scrutiny, and have thoroughly investigated the state of the valuation lists, they had frequently found it necessary to require a new valuation to be made by professional surveyors, with more or less minute details, according to the necessity of the case. In parishes of

considerable extent the valuations made under the direction of the committee have been procured at much cost. This cost proves a serious charge upon the rate-payers of the current year. In the 6 & 7 Will. 4, c. 96, s. 3, which established a mode of procuring a complete valuation of a parish, power is given to provide for the cost by a loan to be repaid during five years, (*i. e.*) by five annual instalments. It has been deemed right therefore to make a similar provision for a loan to be obtained by the guardians for the purpose of paying the cost of the valuation made under this later Act, with the like condition that the amount is to be repaid by not more than five annual instalments. But to prevent any reckless or improvident engagement, the order of the Poor Law Board is to be obtained to sanction this loan.

Complaints have been made by some committees that they have not been able to revise the valuation lists of certain parishes in their union, by reason of the want of a map of those parishes. They have referred to the provision on this point in the 6 & 7 Will. 4, c. 96, s. 3, The Act 25 & 26 Vict. c. 103, contains no authority for the procuring of a map in any such parish. A map, to be available for the purpose of the assessment, should be made after a careful and scientific survey. It must be laid down upon a substantial material, with great detail, and must bear the test of due examination. Under such circumstances it can be obtained only at considerable cost; and the apprehension of such cost prevented the legislature from authorizing the committee or the guardians of the union, or the overseers of the parish, to obtain a map. However, yielding to the allegations of inconvenience, the legislature have now given way and have pro-

vided that the Poor Law Board may, by their order, authorize the committee, with the consent of the board of guardians, to procure a map or plan of any parish within the union. The Board is to direct the cost to be charged to the common fund or to the parish. There is, however, no rule to guide them in the exercise of the choice, and they will have to deliberate upon this important point hereafter.

A question will doubtless arise as to whether the cost of providing a map of the parish under this enactment can be the subject of a loan.

The form of contract framed to meet the provision for the making of a map under the 6 & 7 Will. 4, c. 96, s. 3, will, with some modifications, be available for the purposes of this Act.

These are the new enactments passed to facilitate the procuring of correct valuations of parishes. It remains to notice two other provisions.

The first is a simple enactment which requires the clerk of the Assessment Committee to send annually, in December, copies of the totals of the gross estimated rental and the rateable value of the parishes in the union, to the clerk of the peace of the county or counties in which the parishes shall be situated. These copies will enable the justices to determine whether the basis upon which they assess the county rate is or is not correct. But the justices are not required to adopt them (*a*).

The other provision is intended to enforce more completely the object of these statutes, to secure fair an uniform parochial rating. The 24 & 25 Vict. 103, s. 28, requires the poor rate to be made in

(*a*) See the statute 29 & 30 Vict. c. 78, noticed above, p. lxxxvii., and printed in the note on sect. 28, *post*, p. 44.

strict conformity with the valuation list returned by the committee to the overseers approved. It renders the rate invalid if it depart from such list, and it requires the overseers to make a declaration of their having made the rate in accordance with the approved list.

No particular penalty was provided to secure the due action of the overseers in this respect. They might omit the declaration or might make it falsely. Probably, if in this respect they acted wilfully, they might be liable to some legal consequences of a criminal character, but as this was a vague and certainly an expensive procedure, it has been deemed advisable to provide a specific punishment for this misconduct, and consequently any overseer who wilfully omits to make the declaration required by that Act, or makes it falsely, knowing it to be untrue, is rendered liable to a penalty not exceeding 5*l.*, to be recovered upon a summary conviction. It is to be expected that this enactment will tend to secure due attention, on the part of the overseers, to the valuation lists which have been approved of by the committee. There is a common practice in many parts of the country for the overseers to make rates and collect them without procuring the allowance of the rates by the justices. In these cases the declaration may be avoided, and the security for the due valuation of the property for the purposes of the poor rate is lost.

Such conduct does not affect the guardians of the union, because they will frame their calculations of the contributions to the common fund according to the approved lists in their possession. The ratepayers of these parishes may be injured, but they have the remedy in their own possession, inasmuch as they

can refuse to pay a rate when the assessment has not been allowed by the justices, and the rating is invalid for the purpose of parliamentary or other franchises.

The new statute is thus explained.

It is proper to notice that two returns have been printed in obedience to orders of the House of Commons made in the session of 1863. One was issued on the motion of Mr. Hastings Russell, M.P. for Bedfordshire, which contained "a copy of instructions from committees of boards of guardians (under the Union Assessment Committee Act of 1862) to overseers, for ensuring a just and uniform system of valuation throughout the parishes in their respective unions, and a return of the numbers and names of parishes in each union in which paid valuers have been appointed to make the valuation lists, and the number of parishes in each union from which the valuation lists of the overseers have been received, and the number of lists which have been approved." This parliamentary paper is No. 116 of the session of 1864.

A supplemental return has been since presented, showing the scales of deductions authorized by the several Union Assessment Committees, and set forth in this parliamentary paper. It is numbered 116.—I., and exhibits a great diversity in the views of the committees, not merely of unions situated in different counties, but even of those situated in the same.

The other return was made upon the motion of Mr. Villiers, the President of the Poor Law Board, and contained "a copy of abstracts of the report received by the Poor Law Board from the guardians of the several unions in England as to the proceedings of the Assessment Committees under the Union Assessment Committee Act, 1862, in pursuance of section 12 of

that Act." This paper is No. 540 of the session of 1863.

It contains a short summary of the proceedings of all the committees, with their observations, and an appendix of some more elaborate reports of boards of guardians in a few unions.

This return indeed shows great attention on the part of the committees, and though few unions had completed the revision of the lists up to April, 1863, very considerable progress had been made in almost all of the unions. Testimony is fully supplied by it of the important yet arduous nature of the duties imposed upon these committees, and of the general energy and zeal with which they were undertaken.

On the last day of the session just ended, a return was presented to the House of Commons, on the motion of Mr. Villiers, which showed what unions had, up to that time, completed the revision of the valuation lists, and what unions had not, with the result as regards the amount of the valuations, a comparison being made between the values at Lady-day 1863, and at Lady-day 1864. According to the general expectation there is a very large increase in the value of the rateable property (*a*).

As the whole of the rateable property of this country

(*a*) This return was No. 576 of the Session, 1864. It showed that out of 592 unions, lists has been completed in 408. A series of returns have been made since annually, and the result is as follows:—

In 1865 out of	596	unions	503	were	completed
In 1866 „	598	do	556		do.
In 1867 „	600	do	581		do.
In 1868 „	602	do	588		do.
In 1869 „	603	do	593		do.

The amount of the rateable property revised in 1831 was £18,672,784, and in 1869 £81,945,713.

has been brought under the review of the various committees scattered over the whole of England and Wales, it is not a matter of surprise that many subjects of exemptions, sometimes admitted, and sometimes claimed but not admitted, which affect a large amount of property, have been pressed upon their attention.

The exemptions have,—at least some of them,—long been a subject of complaint, and have on many occasions been brought under the notice of parliament. These complaints have heretofore come from individual ratepayers, or from separate parishes, but now as they come from unions, the depth of the complaints is increased, and it will soon probably become impossible to resist them, though the mode of applying the general rules of rating property to those exempted classes will be found somewhat difficult to settle.

Cases exist of exemptions in parishes which work no injury or unfairness among the ratepayers of the parishes *inter se*, but which in the union cause much unfairness and inequality. One instance exists in reference to the corporate property in a parish co-extensive with the borough. Here the ratepayers of the parish are not injured by the exemption, but the other parishes of the union comprising the borough are injured by this exemption (*a*). Again, in some parishes the tithes are commuted under local Acts for rentcharges payable to the rector or vicar, free of rates and taxes. The tithes are not rateable, neither is the rentcharge paid to the incumbent. While the question was confined to the parish, it was immaterial that no rate

(*a*) See *post*, p. xcv.

was payable upon the commutation for the tithe. But in the union there is a reasonable complaint if the rateable value of this parish is not to include the tithe. Two views have been taken. It is contended on one side that though the tenants of the lands do pay a rentcharge to the rector in respect of the tithe, yet as that rentcharge is not rateable, the lands must be taken to be tithe-free, and, therefore, to be valued as such. On the other hand, it is urged that as the tenant does, in fact, pay a tithe commutation rentcharge, he is entitled under the 6 & 7 Will. 4, c. 96, s. 1, and 25 & 26 Vict. c. 103, s. 15, to a deduction of the amount of such rentcharge, and that it is of no importance to him that this rentcharge, when paid over to the rector, is not subject to assessment.

A case has been brought before the Court of Common Pleas, *Hackett* v. *Overseers of Long Bennington*, 33 L. J. R. M. C. 137, 16 C. B. (N. S.) 38, which has been considered as giving a judicial decision of this question, but when it is carefully examined, it will be found that the court only decided that the occupiers of certain lands subject to a special charge, which was to be paid to a vicar, free of all rates and taxes, in part compensation of his tithes over the whole parish, were not entitled to a deduction of such charge on the estimate of the rateable value of the lands in their occupation. The court distinguished this charge from the general tithe commutation rentcharge mentioned in the 6 & 7 Will. 4, c. 96, s. 1, which in that statute is made the subject of deduction (*b*).

(*b*) A question has frequently been asked by clergymen as to how they should be assessed in respect of their residences. They say that such houses cannot be let, either wholly or partially:

A practical difficulty has been experienced by many committees in reference to what are termed *low-rented occupations*. It frequently happens that lands, though apparently let at rack rent, are nevertheless let at rents below their real value. Various circumstances may explain the cause. But the committees have felt embarrassments in dealing with such cases. The first is the natural one of ascertaining the actual value when the rent paid is departed from. The second is the legal one as to whether it was right to seek any other value than the rent, inasmuch as rent is the criterion of value. It is admitted that this maxim is subject to qualification in cases where the terms of the tenancy show necessarily that the rent is not in the particular instance such a criterion, as where a heavy fine or premium is paid on the demise of the lands. But it was urged that under general and ordinary circumstances the rent should give the proper test (*a*).

The Court of Queen's Bench have, however, in the last term corrected this view, and have referred to the precise terms of the statutes above cited. Mr. Justice Blackburn, in giving judgment in a case before that court, observed,—"The legislature has stated that the estimate according to which the rate shall be calcu-

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therefore the value is not to them what ordinary residences may be to other persons. The answer generally given has been that this circumstance does not affect the value, and that the residence should be valued as any other similarly built and similarly situated dwelling-house. This answer is confirmed by the decision of Pigott, B., and Shee, J., upon a case submitted to them under the Assessed Taxes Act, where the Local Commissioners had made an allowance of one-sixth to the incumbent of a parish in the value of his parsonage to the inhabited house duty on the above ground. These judges, on appeal, held that the commissioners were wrong in so doing. See *Re Bennett*, 11 L. T. (N.S.) 24.

(*a*) See *post*, p. c.

lated, shall be, not the actual rental paid, but the rent at which the premises might have been reasonably expected to let from year to year. The rent actually paid is no doubt *prima facie* the estimate, but it is not conclusive. Here the premises might have been let at a larger sum than that demanded by the landlords, and the rate should have been calculated on that amount." *Hayward appellant, Overseers of Brinkworth, respondents*, 10 L T. (N. S.) 609 (*b*).

In this case the Committee had valued all the rateable hereditaments at the rack rent actually paid, without regarding the real annual values of them respectively (*c*).

(*b*) Some discussion has arisen in "*The Times*" newspaper as to this case, and it has been stated that when the rate was remitted to the quarter sessions, it was amended, not by raising the values of the parties complained of as under-valued, but by reducing the assessment of the appellant. This was a very customary mode of proceeding when the two parties before the sessions were the appellant and the overseers. Now, that the Assessment Committee will be the co-respondents, it may be expected that such a result will not be voluntarily obtained.

(*c*) It is right to refer to the judgment of Dr. LUSHINGTON in the late church rate case of *Edwards* v. *Hatton*, L. R. 1 Eccl. R. 31; 12 L. T. (N.S.) 692; 13 Jur. (N.S.) 141; where he lays it down with reference to the 6 & 7 Will. 4, c. 96, s. 1, that "the actual rent is not a safe test of the relative value of lands. The actual rent of a property may be affected by special circumstances quite independent of its value, *e.g.*, by the character of the landlord, according as he seeks a moderate and sure or a high and uncertain return; the position of the tenant who may be willing to give what is called a *fancy rent* for the property, as adjoining other lands which he owns or occupies; by the special terms of the agreement between the tenant and the landlord as to what shall be done or paid by them respectively, and by the extent of the property, it being notorious that small holdings generally let, proportionately, at a higher rate than large ones do." It is to be feared that the consideration of these several circumstances would tend to lead the committees into much difficulty and embarrassment.

The principle of the Parochial Assessment Act (6 & 7 Will. 4, c. 96) has been also further elucidated in a case of *Reg.* v. *Overseers of Castleton*, 10 L. T. (N. S.) 606. There, a mill in the factory districts not worked by reason of the deficiency of the cotton material, but filled with engines, and kept in working order, had been assessed at its full value estimated as at work. This assessment was held to be erroneous, as being excessive. The premises were not to be treated, however, as not rateable at all, but were properly to be assessed as a warehouse for storing the machinery. The court, referring to the terms of the statute, 6 & 7 Will. 4, c. 96, declared that according thereto the rate should be levied upon the rent which would be given for the property, *rebus sic stantibus*, that it was not right to consider what rent would be paid by a person who would take the same rent for a reasonable term of years, and that future possible profits cannot form an element in the estimation of the value from year to year (*a*).

These important decisions will render much assistance to the Assessment Committees, who are now engaged in ascertaining the rateable value of property throughout the country, either in the original or in the supplemental lists.

Another question of very great importance in reference to the rating of property to the relief of the poor has been brought before the House of Lords during the last session, on an appeal from a judgment of the

(*a*) This decision was confirmed in a subsequent case, *Harter, appellant, Overseers of Salford, respondents*, 34 L. J. M. C. 206; 11 Jur. (N.S.) 1036, where the owner kept the factory, with his machines, engines, and fixtures in it unworked and to let. He was held rateable as for a warehouse and storehouse.

Exchequer Chamber, in a case of *The Mersey Docks and Harbour Board* v. *Jones and another*, 30 L. J. M. C. 239; 9 C. B. (N. S.) 812.

The question raised in the case was whether there is any true ground in law for the exemption from such rates of property held for public purposes only, where the trustees derive no personal pecuniary profit for themselves.

The argument took place before the House, assisted by six of the judges, and towards the close of the session the judges pronounced their judgments. Five of them expressed their opinion that the exemption upon this ground could not be supported, and consequently that such property should be rated; the other judge considered that the exemption had been established by a long current of authorities, and could not now be rejected.

The printed judgments were not delivered until the last week of the session, and the judgment of the House had not been given when the prorogation took place.

It is, of course, much to be regretted that this great question should remain in suspense for several months until the meeting of parliament again, but probably it will be considered most prudent that the course heretofore pursued in respect of this class of property should be continued for the present.

If the House should confirm the opinion of the majority of the judges, some additional strength will be afforded to the endeavours of those who are seeking to remove the admitted exemptions.

W. G. L.

July 30, 1864.

INTRODUCTORY MEMORANDUM

TO THE

EIGHTH EDITION.

The important case of the Mersey Dock Company's Rate, referred to in the preface to the sixth edition of this work, has received its decision in the House of Lords, and that final Court of Appeal has pronounced a judgment in accordance with the almost unanimous opinion of the Judges consulted on the subject, whereby a doctrine which has prevailed for great part of a century, in reference to the construction of the Statute 43 Eliz. c. 2, has been overruled. It is now decided that it is immaterial for what purpose property yielding a profitable return is occupied when the question of rating it under that Statute is to be considered. The case actually involved the question of an appropriation of the profits of the occupation to a public purpose, and exemption was claimed on the ground of a want of beneficial occupation. The House held, and the opinions of four different Lords were delivered, that this was no ground of exemption, and that whatever may be the purpose, if the occupation of the property be profitable, it is rateable. It was admitted that the property of the Crown was, by the royal prerogative, exempt, because the Sovereign is not mentioned in the statute, and this exemption is extended to the property of the different departments of Government,

under which head their Lordships were disposed to include such tenements as public gaols, county courts, police stations, the lodgings of the Judges at the assizes, and similar places (*a*). The reports of this decision in the House of Lords will be found in the 12 Law Times (N. S.) 643; 35 L. J. R., M. C. 1; 11 Jur. (N. S.) 746.

The principle of the rule thus laid down included charitable and eleemosynary institutions, such as hospitals, infirmaries, schools, and the like, and one of the Lords in his judgment adverted to such establishments, though the case was not in itself one of a charitable object.

However, the Court of Queen's Bench, in last Michaelmas Term, declared that the principle did extend to charitable purposes, and decided that since this decision no exemption could be claimed for an hospital or other eleemosynary institution. The cases in which they so decided were *The Trustees of Ilkley Hospital* v. *The Ilkley Overseers*, and *Reg.* v. *The Trustees of the British Orphan Asylum*. See 41st vol. of the Law Times, p. 42 (*b*).

Enquiry has been made in Parliament as to whether the Government will interfere to procure a statutory reversal of this decision in favour of charitable institutions, and Mr. Villiers, President of the Poor Law Board, stated in their behalf that they did not intend to do so (*c*).

This decision will therefore render rateable a very large amount of property which had enjoyed exemp-

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(*a*) See *post*, p. xcv.
(*b*) See *post*, p. xc.
(*c*) See *post*, p. xc.

tion, not, it must be allowed, without much doubt during late years.

Besides the exemptions which have hitherto existed in respect of the purpose and object of the occupation, and which have thus been removed, there are other exemptions which exist in respect of the subject matter of occupation. The most important of these are metallic and mineral other than coal mines, and woods or woodlands.

These exemptions exist by reason of the construction given by the Courts of Law to the language of the Statute of Elizabeth, whereby the Poor Rate Assessment was created.

The exemption of metallic mines has been established by decisions of the Court of Queen's Bench since 1762, which were confirmed by the Court of Appeal, in the Exchequer Chamber in 1842 (*d*).

The exemption of woods and woodlands is established by decisions of the Court of Queen's Bench upon appeals from the Quarter Sessions, in which cases there was no appeal from the decisions of that Court, and in one other case where the question was raised at Nisi Prius, and upon a motion for a new trial. Here no appeal was open from the decision of that Court.

It has been proposed that the questions relating to these exemptions should be raised again in such a manner that they may be carried forward to the ultimate Court of Appeal in the House of Lords, so that it may be there decided whether in these instances also, the construction which has been pronounced by the Courts below can be supported. The importance of

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(*d*) And further confirmed by that Court in 1869; see *post*, p. lxxxix.

these questions to many Unions may, it is considered, well justify the Assessment Committees in seeking the decision of the highest court of law upon them. It is clear that Parliament is slow to take away exemptions which exist, though the present sentiment of the Legislature appears to be equally adverse to the creation of exemptions.

An attempt was made in the House of Commons, in the years 1855 and 1856, to render all mines rateable, by bills introduced into the House of Commons in those years. The subject was referred to a Select Committee, which made a special report, and then the proposal was abandoned. A bill has been introduced into the House of Commons during this session, to renew the attempt (*a*).

It will be useful here to refer the Assessment Committee to two important decisions relative to their dealing with property, popularly termed compounded tenements. It will be remembered that many Local Acts, and the Public Statutes, 59 Geo. 3, c. 12, and the 13 & 14 Vict. c. 99, enabled the owners of property under a certain annual amount to be rated, instead of the actual occupiers, but at a reduced amount, varying according to the terms which the owners may make with the parish officers.

This, however, is a matter which affects the rate itself and does not affect the rateable value of the hereditament, though the owner is to be assessed to the poor rate at a certain portion of the amount at which the tenement would otherwise be liable to be rated.

(*a*) See *post*, p. lxxxix.

Hence it has been decided that in settling the valuation list of any parish which contains tenements at or below the amount limited for the composition, the Committee must set out the full rateable value of every tenement, and make no allowance or deduction in reference to the composition under which the owner may pay the rate. *Sunderland Overseers*, Apps., *Guardians of Sunderland Union*, Resps., 18 C. B. (N.S.) 532 (*b*).

A hardship has been pointed out as resulting from this decision. The parish, where there is much of this compounded rating, must contribute to the common fund of the union upon the full rateable value, though the overseers will raise only a reduced amount of the rate by reason of the composition. It is answered that the taking of that composition is not, in fact, a loss to the parish, that the landlord or owner pays in respect of the compounded rating quite as much, and probably more, than the overseers would be able to obtain from the occupiers who might be assessed at the full rateable value, and if there were no composition the parish would be called upon to contribute upon the total amount of the rateable value, however much of this rate might be lost by excusal or default of the ratepayers.

The other decision upon this head refers to the allowance to be made for the rates and taxes. A deduction or allowance is made for those items in most valuations, though there is some technical difficulty in settling how it shall be estimated. As regards the compounded ratings, it has been questioned whether

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(*b*) This will apply to the rating of *owners* under the recent Act, 32 & 33 Vict. c. 41.

the allowance should be according to the rateable value, as ascertained by the Assessment Committee, or according to the amount of the rate which the overseers will receive from the owners. It was, however, contended, that under the Parochial Assessment Act, the rateable value is to be found by ascertaining the ordinary amount of the tenant's rates and taxes, and that the Committee are to calculate what would be the rates upon the rateable value. It was said that they could not foresee how the property would be occupied, or what terms the overseers might make with the owner. This view has been adopted by the Court of Queen's Bench, in a late case in an appeal against a poor rate, where, under a Local Act, the landlord was entitled to compound for the rates upon property under a certain annual value, and did so. The Court held that the reduction should be made for what the tenant would have been rated at, and not according to the sum actually paid by the landlord. *Reg.* v. *Dodd*, 12 Jur. (N.S.) 159; *Reg.* v. *Overseers of Bilston*, 35 L. J. M. C. 97; Law Rep. 1, Q. B. 16; 6 B. & S. 903.

In this respect the parish has an advantage in regard to its contributable value to the common fund, though the ratepayers in the particular parish above the rate of the composition are injuriously affected by the decision.

In regard to the taxes and rates for which allowance is to be made, it is to be stated that the Court of Queen's Bench, in *The Queen* v. *Hall Dare*, 5 B. & S. 785; 11 Jur. (N.S.) 59; 34 L. J. M. C. 17, have decided that the general sewer's rate imposed under 4 & 5 Vict. c. 45, is a rate to be deducted as a tenant's rate or tax, while in *The Queen* v. *The Overseers of Bilston*, 1 Law Rep. 18; 6 B. & S. 908, the same

court decided that no allowance was to be made in respect of a water rent paid by the landlord for water laid on to the premises, either as a tenant's rate or as an expense necessary to keep the premises in a state to command the rent.

The first case may also be properly consulted in regard to allowances in respect of the maintenance and repair of a sluice or floodgate and gote, and also for a sea wall, where such matters become necessary for the protection of the lands occupied.

Although it was generally considered that a mere right of shooting over ground in the occupation of another person was not rateable, and several cases have been decided relative to this right, it is well to refer on this point to the case of *The Overseers of Hilton* v. *The Overseers of Bowes*, 14 Weekly Rep. 368; Law Rep. 1, Q. B. 359; 7 B. & S. 223. Here, under an Inclosure Act, a moor was converted into stinted pastures. The rights to the game over the whole were reserved as they existed before. The lordship of the manor was vested in certain trustees, who took means to secure the game, and granted licenses to shoot over the moor, from which they derived a large annual income. The Court of Queen's Bench held that this was only a right in gross, which was not rateable. The Judges distinctly declared that a mere right of shooting is not rateable, and that the right in this case could not be connected with any basis or subject matter rateable in itself (*a*).

The Committees will derive much assistance in deciding upon the valuation of hereditaments where machinery and fixtures are found mixed with the build-

(*a*) See *post*, p. lxxxix.

ings upon the land, from the case of *Queen* v. *The Inhabitants of Lee*, 35 L. J. M. C. 105; 12 Jur. (N.S.) 225; 7 B. & S. 188; Law Rep. 1, Q. B. 241, where the proper mode of rating Gas Works was brought before the Court of Queen's Bench for their decision. It is not necessary here to give the description of the subjects of the inquiry as set out in detail in the case, but it will suffice to say that the court held that retorts, purifiers, steam engines, boilers, and gas holders, which were all fixed to the premises, were to be considered as properly included in the valuation of those premises for the purpose of being rated, but that the meters belonging to the company, and affixed to the premises of the consumers of the gas, were not to be so included.

The following passage may be well cited from the judgment of BLACKBURN, J. "I take it to be clear that what the court have laid down is this: if you wish to know for how much a furnished house is rateable, you must ascertain what is the rent for the house and what is the rent for the furniture and fixtures, deduct what is paid for the use of the furniture and hose things which form no part of the rateable premises, and the remainder will be the rent for which the house is rateable. A question will then arise, whether those things in respect of which you make a deduction are in themselves part of the premises, or like the furniture, no part of them. Some things are attached to the premises, so as to be part of them, though, as between the landlord and tenant and the heir and executors there is a right to remove them, and of course no allowance can be made for them. Other articles, such as movable furniture, are manifestly not part of what is let, and are the subject of

the allowance. But there are intermediate things, with respect to which it is sometimes difficult to decide whether they are part of the premises or not, and to this class the articles in the present case belong. The rule laid down has been, *that when things are attached to the premises so as to become part of them, although there may be a right to remove them, they are to be looked upon as part of the premises. But, if any thing is fastened to the premises, so as still to remain a chattel, though fixed and steadied for the purposes of use, it never ceases,* to use the phrase in the case of *Hillowell* v. *Eastwood* (6 Exch. R. 295), *to have the character of a movable chattel, though fixed for the purpose of having the enjoyment of it.*" The ordinary illustration is the case of a mirror, which is screwed to a wall, but still remains a movable chattel, and is no part of the premises. On the other hand, a grate which is built into a chimney, though it is capable of being removed, would still be fixed to the premises so as to be part of them, and therefore part of what would be considered as let to the hypothetical tenant, and for which he would pay rent. In *Hillowell* v. *Eastwood* the court were dealing with machinery which was fixed, screwed, and attached to the premises, and they laid down the rule, as being "a question of fact, depending upon the circumstances in each case, but principally upon two considerations—first, the mode of annexation to the soil or fabric of the house, and the extent to which it is united to them, whether it can be removed *integre salve et commode*, or not without injury to itself or the fabric of the building;" secondly, and this is worthy of attention, "on the object and purposes of annexation, whether it was for the permanent and substantial improvement of the dwelling in the language of the

Civil Law, *perpetui usus causâ*, or in that of the Year Book, *pour un profit de l'inheritance*, or merely for temporary purposes, or the mere complete enjoyment and use of it as a chattel."

Having thus noticed the late decisions upon various questions connected with the valuation and assessment of property, it only remains to remark that this important statute continues to engross general attention. The labours of the Assessment Committees have produced a great result in eliciting a more complete and accurate valuation of the rateable property of the country. A large increase is shown by the returns which the boards of guardians annually render under the requirements of the statute far beyond what the progressive prosperity of the country and the great expansion of commercial enterprise will explain.

Great assistance has been afforded in the preparation and the discussion of the great national measure for extending the electoral franchise now before the country, and it is generally admitted that the lists provided under the revision of the Assessment Committees have afforded more reliable information as to the state of the tenancies of the lower classes of society than could have been obtained by the most laborious inquiries established for a particular object.

Though individuals may entertain objections against a tribunal where their interests have been affected, and there may be occasional discontent with a decision which raises the assessable value of particular properties, it is believed that generally the committees retain the confidence of the ratepayers, and are discharging their ungracious office with zeal, skill, and impartiality.

Whether they may not be properly supplied with

professional aid of a general character in the shape of a surveyor as their permanent officer, or some other paid authority as their presiding chairman or assessor, is a question which deserves much consideration, and as time passes on will, perhaps, force itself upon the attention of the legislature (*a*).

In this edition some few additional notes will be found, and the Author acknowledges with much pleasure the favour with which his little work has been received.

W. G. L.

April 7th, 1866.

(*a*) See now the provision contained in the 31 & 32 Vict. c. 122, s. 32, *post*, p. 31, which has enabled this want to be supplied.

MR. LUMLEY'S PREFACE

TO THE

NINTH EDITION.

SINCE the publication of the last edition of this little work, several important steps have been taken in Parliament calculated to affect its subject in various material ways, and during the same period some decisions have been given by the Courts of Law which have tended to assist the Assessment Committees in their labours.

It will be convenient to notice these matters briefly, beginning with the action of the Legislature.

Early in the Session of 1866, the subject of the exemption of Government Property from rating was discussed in the House of Commons, but without any result. The question was introduced by Mr. Alderman Salomons, who sought to have the exemption wholly removed. Mr. Gladstone, then Chancellor of the Exchequer, admitted the importance of the matter, and the anomalous character of the exemption, but pointed out the magnitude of the interest involved, and recommended the postponement of the subject at that time, and this was acceded to.

A bill was introduced during that session to explain the operation of the Act, which is the subject of this commentary, in reference to the County Rate, and passed through both Houses without any material discussion, and became law.

The bill noticed in the preface to the last edition, for the rating of mines was withdrawn upon the change in the Ministry. In the Session of 1867, the bill was presented again by Mr. Percy Wyndham, M. P. for West Cumberland, and read a second time, when it was referred to a Select Committee, which sat for a short period, examined a few witnesses, and then reported the bill to the House as amended. (See No. 321, Parl. Pap. of 1867.) It did not pass through the Committee of the House, but was withdrawn at the end of the Session. When the House met again in November, Mr. Wyndham renewed his application, and his bill was read a first time. It was read a second time at an advanced period of the session, and the House went into committee upon the bill near the close, when a general proposition was carried in simple terms, that all mines not then liable to be rated, should be rated to the poor and other local rates.

This resolution, however, destroyed the bill, as it was shortly afterwards withdrawn.

No further step was taken during the last Session, but the subject was pressed upon the especial notice of the Government, and some expectation has been raised that the present Ministry will consider and propose some general measure to settle this question, which has caused much more discussion than its intrinsic value perhaps deserves.

While these proceedings were being taken in Parliament, an attempt was made to obtain a judicial reversal of the former decisions of the Courts of Law as to the exemption of metallic mines. The Assessment Committee of the *Westbury-upon-Severn Union* included the iron mines in the Valuation List for the Township of East Dean, in the county of Gloucester. The overseers

of that township accordingly rated the occupier of the mine, and having attempted to recover the rate by a distress warrant, the occupier of the mine brought an action of trespass, and the point at issue was stated in a short special case. The Court of Queen's Bench gave judgment for the plaintiff without argument, and the Court of Exchequer Chamber confirmed that judgment, holding that they could not overrule the many previous decisions in favour of the exemption. *Crawshaw* v. *Morgan*, Law Rep. 4, Q. B. 581.

The proceedings in the case have not yet gone farther.

It is proper to be noticed, as regards the rating of mines, that a return was presented to the House of Commons in June, 1867, on the motion of Mr. Bagnall, M. P. for Whitby, which showed with respect to coal mines, "The basis or principle adopted in the several Union Assessment Committees for ascertaining the gross estimated rental or yearly value, and which specified the rate and nature of the several deductions made therefrom for the purposes of rateable value." The return (No. 418 Parl. Pap. of 1867,) exhibits the greatest variety of practice, and almost an entire absence of principle as regards the valuation of collieries.

The bill which was first introduced by Mr. Wyndham in 1867, applied also to the exemption of woods and woodlands, but as already observed it failed. He did not provide for this subject in the subsequent bill, but Mr. Read, M. P. for South Norfolk, at the close of the Session of 1868, presented a bill to assess woods and game to Local Rates, but no further progress was made, and these subjects remain still open to future consideration.

During the same Session a bill containing various provisions for the amendment of the Poor Laws was laid before the House of Lords by the Earl of Devon, President of the Poor Law Board, and ultimately it became law. (31 & 32 Vict. c. 122). In it were several clauses which amended the Union Assessment Committee Act of 1862 in some details. Those provisions will be found in the notes appended to the Act in the following pages.

When Mr. Wyndham's bill relating to the Assessment of Mines was referred to a Select Committee, the House of Commons, on the motion of the Government, referred the general subject of the exemptions from rating to the same Committee for report, but the Committee declined to enter upon so wide a field of enquiry.

Several questions were submitted to the Government during the Session of 1867 and 1868, as to the exemption of Charitable Institutions and Day and Sunday Schools from Local Rates.

The Government, however, though promising attention to the matter, excused themselves from bringing forward any particular measure.

In the last Session two bills were introduced into the House of Commons to remove, in certain cases, the effect of the decision of the case of *The Mersey Docks Board* v. *Jones*. One applied to the subject of Sunday and Ragged Schools. Mr. Reed, M. P. for Hackney, proposed a bill to exempt them from rating. His bill was strongly opposed by the Government, who objected to all kinds of exemption, and therefore refused to sanction this measure. The support given to the bill by the members on both sides of the House was, however, too strong to be overcome, and the bill was ultimately carried, and passed into a law.

Its provision, however, is very peculiar. It does not absolutely exempt the property, but it enables the authority which is empowered to levy the rate, to exempt any such school.

The Assessment Committee, therefore, cannot properly omit these tenements from the Valuation Lists, because they cannot tell whether the overseers will or will not exempt the same from their rate.

The Act (the 32 & 33 Vict. c. 40,) is printed in the Appendix.

The other bill was not so successful. It was a bill to exempt Hospitals, Infirmaries, and Dispensaries from being rated. This bill was introduced by Mr. Wheelhouse. M. P for Leeds, and though it was read a first time, it met with strong opposition. It was kept before the House during the greater part of the Session, and was ultimately withdrawn without having been read a second time.

The general subject of Local Taxation was discussed several times, but the discussion had no special reference to the valuation of property to the Local Rates.

It is now necessary to refer to the Valuation Bills which have been brought before Parliament by the late and the present Government. In February, 1867, Mr. Ward Hunt, then Secretary to the Treasury, introduced a bill "to provide for a common basis of value for the purposes of Government and Local Taxation, and to promote uniformity in the Assessment of Rateable Property in England." It was a measure of extensive details, and created a tribunal whereby the decisions of the Assessment Committees in the different Unions might be revised, and, where necessary, corrected. It also contained numerous directions to assist the Committees in the valuation of property. On

the second reading, much discussion ensued, but it was generally admitted that the Union Assessment Committee Act had been a very beneficial measure, and had for the most part worked well. The bill was, however, read a second time, and was then referred to a Select Committee, of which Mr. C. P. Villiers was the Chairman. The Committee made many important alterations in the bill, and returned it to the House with those alterations, but the very serious question which then engaged the attention of Parliament, prevented it from being further considered. The proceedings of the Committee were printed in No. 322 of the Parliamentary Papers of 1867.

No step was taken in respect of this bill in the Session of 1868. But in the last Session Mr. Goschen, President of the Poor Law Board, laid before the House of Commons a similar bill, providing for a Valuation Board to be established in every County to lay down proper scales of deductions to be allowed in the valuations of all rateable properties, and for an appeal to the County Court Judges. The Valuation Lists were to be subject to periodical revisions, though the intermediate variations in the values of properties were to be duly provided for.

The proper forms of Valuation Lists were set forth, and stringent powers were proposed to be given for ascertaining the actual values of individual hereditaments, and there were various miscellaneous provisions for improving the making, collecting, and recovering rates.

The bill, however, though brought frequently under the notice of the House, was withdrawn on the 1st of July, without having been read a second time.

But although the general proposal for the uniform

valuation of assessable property in the Kingdom has not been established, a limited proposal for providing uniformity in the assessment of rateable property in the Metropolis, which was also introduced into the House of Commons by Mr. Goschen, in the commencement of the session, ultimately became law. It is the 32 & 33 Vict. c. 67, and is termed "The Valuation (Metropolis) Act, 1869."

It provides for the valuation of property in the metropolis only, and so far affects the subject of this commentary. But, as it is of such limited operation, and demands a proper commentary for itself, no further notice of it is required in this place, except the remark that certain rules for the valuation of specific classes of property are introduced, which may hereafter be rendered applicable to the whole of the Kingdom.

This Act, however, in many respects affects the Union Assessment Committee Act of 1862 in the Metropolis, and therefore, any person referring to this Treatise in respect of a matter arising therein, must ascertain whether the last Act provides for it, either in addition to or in substitution of the former Act.

It is right to mention that the Representation of the People Act, 1867, made various alterations of the law as regards the rating of houses to the Poor Rate, but they were confined entirely to the persons to be rated, and to the collection of the rate, and in no respect affected the valuation of rateable property. As those alterations created much excitement, and in many places much confusion, a committee was appointed by the House of Commons in March, 1868, on the motion of Mr. Ayrton, "to enquire into the Assessment and collection of Poor Rates, and other Local Rates and Taxes in England and Wales."

The committee having taken much evidence, made a report which referred exclusively to the making and collecting of the rates, and had no reference to the valuation of property.

It is also to be stated that the Act of last session, 32 & 33 Vict. c. 41, which is termed "The Poor Rate Assessment and Collection Act, 1869," is also confined to the making and collection of the rate, and providing for the rating of the owner instead of the occupier in certain cases. It does not appear to affect the action of the Assessment Committees in any respect.

In the Act 31 & 32 Vict. c. 122, s. 38, above referred to, will be found a new provision for the cases of new houses and buildings which are brought into occupation after a rate is made. A supplemental list is to be made in such cases for the supervision of the Assessment Committee.

Now, attention should be given to the judicial decisions. These have been given first, with reference to the *subject matter* of the assessment, and secondly, with reference to the *value* of the rateable hereditament.

First, as regards the subject matter of the assessment.

In the judgment of the House of Lords, given in the case of the *Mersey Docks and Harbour Board* v. *Jones and another*, 12 L. T. (N.S.) 643; 35 L. J. R. M. C. 1, it was admitted by some of the Lords who gave judgment therein, that not only lands and tenements occupied by the Queen were exempt, but that this prerogative also extended to all lands and tenements occupied by what is comprised under the general term of the Government, and this term of Government it was stated would cover a large amount of property occupied for purposes of a general public character.

In accordance with this view, the Court of Queen's Bench have held that premises occupied by and for the purposes of the county police, and a building occupied for the purpose of the courts of assize and sessions, for judges' lodgings, for sheriffs' courts, and revising barristers' courts were exempt from rating. *Q.* v. *St. Martin's Leicester, and Q.* v. *Castle View*, Law. Rep, 2, Q. B. 493.

But, where the county justices who had provided courts for the assizes, let the premises, and received a rent for them, it was held that they were rateable to the extent of the profit which they made, though the premises were in part used for borough courts. *JJ. of Lancashire* v. *Overseers of Cheetham*, Law. Rep. 3, Q. B. 14.

So also, a public bridge built by government for the use of the public, but subject to tolls to be raised for liquidating the cost of the building, was held not rateable on the ground of its being the property of the crown. *Q.* v. *M'Cann*, Law. Rep. 3, Q. B. 677; 9 B. & S. 344.

There have been two cases relating to the rating of corporate property. One is *The Mayor, &c. Lincoln* v. *Overseers of Holmes Common*, Law Rep. 2, Q. B. 482. Here the corporation owned and occupied a common, which was depastured by the freemen under a right of common, to such an extent that no profit remained to the corporation, and it was held that there was no rateable value so as to render the hereditament capable of assessment.

The other case is that of *The Q.* v. *Corporation of Oldham*, Law Rep. 3, Q. B. 474. Here it was held that by force of the 4 & 5 Vict. c. 48, s. 1, when a municipal corporation and a parish are co-extensive, the property of the corporation within that parish is

not rateable, though the parish may be comprised within a union where the relief of the poor is a common charge.

This is a provision of the law which creates a feeling of much injustice in unions comprising such parishes and corporations with other parishes out of the corporations.

As regards the subject matter in reference to its character, it is to be observed that the court held that where mooring posts were fixed in a navigable river by the conservators, and they let to a person the right to fasten a floating barge thereto for a term at an annual rent, such person was not liable to be assessed in respect of his right to this mooring. *Watkins* v. *Overseers of Milton-next-Gravesend*, Law Rep. 3, Q. B. 350; 35 L. J. M. C. 88.

So, a corporation who made a public sewer for the general use of a district, were held not to be liable to be assessed for such sewer. *Q.* v. *Metropolitan Board of Works*, Law Rep. 4, Q. B. 15; 38 L. J. M. C. 24.

But, although there could be no legal assessment in respect of the sewer, yet, as the corporation occupied land for pumping purposes, for the support of steam engines, and for wharfs, it was held that they were liable to the extent of that property for this occupation of the land.

On a like ground where land was occupied by a canal, used to bring water to a lead mine for the purpose of facilitating the working of it, the Court of Queen's Bench held that the land was rateable, though the mine itself was exempt. *Talargoch Lead Mining Company, Limited* v. *The Guardians of St. Asaph Union*, 39 L. J. M. C. 149; 9 B. & S. 210; Law Rep. 3, Q. B. 478. In this case much doubt was

thrown upon the decision of *R.* v. *Bilston*, 5 B. & C. 851, where a steam engine, used in the working of an iron-ore mine, was held to be exempt, as being only an incident to the mine, and therefore brought within the general exemption of the mine.

A judgment of much importance was recently given by the Court of Queen's Bench, in regard to the powers of the Assessment Committee. It was held that the Committee was justified in inserting in the Valuation Lists new houses or buildings ready for occupation at the time when the valuation or substitutional list is made out, although the same may have been then unoccupied, and therefore not then liable to be actually rated. *Q.* v. *Malden*, Law Rep. 4, Q. B. 326. This ruling produces a serious and somewhat unequal effect in parishes where there are many new buildings in progress, as the contributions to the Common Fund will be calculated on the enhanced value, though the rate recovered by the overseers will not be equal to that amount. This unfairness does not arise in the case provided for in the Act of 1868, noticed above.

Secondly, as regards the value of the rateable hereditaments.

The value which attaches to land from the game found upon it, and the right which exists of preserving it for the exclusive enjoyment of the owner of the soil, which will be found to be the subject of remark in the memorandum to the eighth edition, has been again under the consideration of the Court of Queen's Bench. In *The Q.* v. *The Guardians of the Battle Union*, Law Rep. 2, Q. B. 8, it was held that where the owner of land which he occupied himself let the right of shooting game over it to another person for a valuable con-

sideration, his land was liable to be assessed at its value enhanced by the value of this right. It had, however, been held that the tenant of land where the right is reserved to the landlord is entitled in the valuation of his land to the poor rate to a deduction in respect of this reservation. *Reg.* v. *Thurlstone*, 1 E. & E. 502; but where the tenant of the land had become entitled to this right by purchase he could not claim the deduction. *Q.* v. *Williams*, 23 L. T. 76; 5 Jur. 821. It is difficult to see any distinction in regard to the assessable value of the land, where the right to the game is severed from the occupation, whether the land is occupied by the owner or by the tenant. It is an element in the valuation of the hereditament, and as regards the assessable value, it must be immaterial who has the enjoyment of it, or derives a profit from it.

Hence the decisions are not easily reconciled, and it is probable that if the same state of circumstances as occurred in *Reg.* v. *Thurlstone*, were brought before the court again a different judgment would be pronounced. In the case of *The Q.* v. *The Rhymney Railway Company*, Law Rep. 4, Q. B. 284, the court state that "it has been considered as of doubtful authority."

If this should be the result of another appeal to the court, the grievance, which is much complained of, arising out of the alleged exemption of the right of sporting over land would be removed without legislative interference.

In the case last mentioned certain wharves were occupied by a Railway Company, and wharfage dues were received by them in respect of those wharves, but the Company were bound to pay those dues over to

another party, it was held that in estimating the rateable value of the wharves the value of the dues so received by the Company was to be included in the calculation, though the Company derived no benefit from them. These dues enhanced the value of the property which they occupied, and it was immaterial how the profit was distributed.

While the general subject of the exemption of woods and woodlands remains unsettled, it is well to notice that the Court of Queen's Bench gave an extension to the rateability of *saleable underwood*, in the case of *Lord Fitzhardinq* v. *Pritchett*, Law Rep. 2, Q. B. 135, where they held, that if the mode and cultivation of woods produce a succession of profitable crops from the same shoots and roots, the woods are to be treated as saleable underwoods no matter at what intervals they are cut, or of what species the trees may be.

To advert to another subject, it is to be noticed that, in valuing a railway which formed part of a system, it has been decided that it must be valued according to its own intrinsic value in the parish where the line runs, and that no reference should be made to the value of other branches or parts of the way where the profits are increased by reason of the line under consideration.

Hence the gross earnings of the railway in the particular parish and the working expenses and charges applicable to that portion of the line are alone to be taken into estimation, and the effect of the traffic in such parish tending to diminish the amount of the working expenses of the railway over the whole line is not to be considered in this estimate. *Great Eastern Railway Company* v. *Overseers of Haughley*, Law Rep. 1,

Q. B. 666, and *The Q.* v. *The Overseers of Llantrissant*, Law Rep. 4, Q. B. 354.

It is desirable to quote from the judgment of Mellor, J., in the last case, the following observation; — "Some difficulties have been introduced by confounding the hypothetical tenant with the actual tenant; it is not because a particular tenant will give a large sum as rent that that is any criterion of the rateable value." This remark has an important bearing upon the discussions which arise as to the proper value to be assigned to lands rented at high prices for accommodation or fancy purposes.

Further elucidation of the general proposition as to rent being a criterion of value is given in the recent case of *The Q.* v. *The Overseers of Lapley*, 9 B. & C. 569. There a Canal was let by its proprietors to a Railway Company, who guaranteed certain sums to be paid in the nature of rent to the owners of the Canal who continued to work it, in the event of a deficiency in the profits of the Canal from a certain specified sum. It was held that the Canal, could only be valued by reference to the net profits earned in the particular parish, and that no regard was to be given to the rent paid by the Railway Company to make up the deficiency referred to.

Mr. J. Blackburn stated these propositions:—"If a landlord let premises to a tenant, and the tenant agreed with his landlord that he should manage the property and take the profits in discharge of the rent, the landlord would not be rateable in respect of what he received as landlord and not as occupier. Again, suppose a ground landlord became tenant under his lessee, the rateable value would not be increased by

the ground rent received. If the occupation and the interest were blended together the question would be different."

The mode of ascertaining the allowance which should be made for the repairs has been the subject of consideration in two cases. In one, *Q.* v. *Wells*, Law Rep. 2, Q. B. 542, it appeared that a certain rent was paid, the landlord finding the chief materials for repairs, and the tenant other materials and the cost of labour. This rent being taken as the gross estimated rental the Court of Queen's Bench held that in estimating the rateable value, the cost of the repairs borne by the tenant ought not to be deducted.

In regard to a Railway the allowance for the depreciation of the rolling stock made on an average taken from the number of years for which such stock would be supposed to last was held not to be erroneous The Court held that there was no rule of law which required that the allowance should be the difference between the value at the beginning of the year for which the rate was made, and at the end of it. *Great Eastern Railway Company* v. *Overseers of Haughley*, Law Rep. 1, Q. B. 666.

There has always been a difficulty in determining for what number of years the average of the repairs should be taken. This decision is satisfactory as regards machinery, engines, rolling-stock, and analogous articles, when they fall within the estimate of the value of the hereditament. But it does not remove the difficulty as regards ordinary house property or similar rateable hereditaments.

In the case of *Q.* v. *Wells*, above referred to, the Court were disposed to hold that the estimate of the

THE

UNION ASSESSMENT COMMITTEE ACT, 1862.

25 & 26 Vict. Cap. 103.

An Act to amend the Law relating to Parochial Assessments in England.

[7th August, 1862.]

"Whereas it is expedient that more effectual "provision should be made for securing uniform "and correct valuations of parishes in the "unions of England:" Be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, as follows:

Interpretation.

1. The words used in this Act shall be construed in like manner as the words contained in the Act fourth and fifth of King William the Fourth, chapter seventy-six (*a*), and the word "committee" shall signify the Assessment Committee provided for by this Act; and this Act shall be termed "The Union Assessment Committee Act, 1862."

(*a*) See 4 & 5 Will. 4, c. 76, s. 109. The following words, which are used in this Act, are defined therein,—*guardian, justice, oath, overseer, parish, person, poor rate, general quarter sessions, union;* but the definitions given in the Poor Law Amendment Act will be found to be in some cases modified by the context of the provisions of this Act.

Sect. 2.

Appointment of the Assessment Committee by board of guardians.

2. The board of guardians of every union, formed under the Act fourth and fifth years of King William the Fourth, chapter seventy-six (*a*), shall, as soon as convenient after the passing of this Act (*b*), and in every subsequent year, at their first meeting after the annual election of guardians, appoint from among themselves (*c*) any number not less than six nor more than twelve to be a committee, consisting partly of *ex officio* and partly of elected guardians, to be called The Assessment Committee of the Union, for the investigation and supervision of the valuations to be made as hereinafter mentioned within such union, and for the performance of such [said*] acts and duties as hereinafter mentioned: Provided always, that one-third at least (*d*) of such committee shall consist of *ex officio* guardians, in case there shall be an adequate number of such *ex officio* guardians; but in case an adequate number of such *ex officio* guardians shall not exist, then the number (*e*) so deficient shall be made up of elected guardians.

* *Sic* in statute.

(*a*) The provisions of this Act were formerly confined to unions, and did not extend to any single parish, though there was a board of guardians acting for it under the 4 & 5 Will. 4, c. 76. Sect. 45, *post*, contains a provision whereby this Act may be rendered operative in unions formed under local Acts; and the 43 & 44 Vict. c. 7, *post*, now enables the 25 & 26 Vict. c. 103, to be applied to single parishes under separate boards of guardians constituted under the Poor Law Amendment Act, 1834.

(*b*) A discretion was left to the guardians in the first instance as to the time of adopting this Act, because they were to determine when it would be convenient for them to do so, but they had no discretion afterwards. They are required to make the appointment at the first meeting after the annual election, as to which, see 14 & 15 Vict. c. 105, s. 2. If they omit to do so, the Poor

Law Board are required to issue their order to compel them to make the appointment at a future time. See sect. 4. Note to Sect. 2.

When a parish is added to an existing union, the committee should forthwith require a valuation list to be prepared for it, though it was not in the union when the committee was appointed. Where new unions are formed, it is considered that they should appoint an assessment committee as soon as practicable after their first meeting, and not wait for the next annual election.

(*c*) Note, that no one but a guardian can be chosen by the board to form part of the committee. The board of guardians are to fix the number of the committee within the limits prescribed by the Act. In so doing, they should refer to sect. 9, which provides for the quorum at the meetings. The number for the first committee having been fixed, and the members appointed, there can be no change during the year, but it will, as it seems, be competent for the board of guardians to vary the number in subsequent years. It appears that any guardian may be appointed, and therefore even an overseer or churchwarden of a parish, if acting as a guardian, may be appointed a member of the committee; but such an appointment will generally be inexpedient, and the board of guardians will do well not to make it. Although an *ex officio* guardian continues such as long as his qualification remains, he must, if once appointed a member of this committee, be annually re-appointed to enable him to continue to act.

(*d*) There is nothing to prevent the guardians from appointing a greater number of *ex officio* members upon the committee if they think proper. But they cannot omit them altogether, even though the board may believe that if elected they will not act. An *ex officio* guardian is a justice of the peace, residing in any parish in the union, and acting for the county, riding, or division in which the union, or any part of it, is situated. See *Lumley's Poor Law Election Manual*, 4th Ed. p. 61.

(*e*) This means, that the board shall determine the number of which the committee shall consist, and if there be no *ex officio* guardian, the whole of the number must be chosen from the elected guardians. If there be some, but not so many as a third, the deficiency shall be made up from the other guardians. If there be in fact one or more

Note to Sect. 2.

ex officio guardians, but he or they will not act, it seems that the guardians cannot fill up their places by elected guardians.

Where union has the same bounds as borough, names of Assessment Committee to be transmitted to town council, who may appoint additional members.

3. [*] Where any union (*a*) shall have the same bounds as a municipal borough, the clerk to the guardians of such union shall, upon the appointment of the Assessment Committee, if directed by the said guardians to do so (*b*), transmit in writing the names of the persons so appointed to the town council of such borough, and such council may thereupon, if they think fit (*c*), appoint from themselves a certain number, not exceeding the number appointed by the board of guardians, who shall, until they respectively cease to be members of the town council, or decline to act, forthwith form part of the Assessment Committee for such union; and the said council may from time to time supply any vacancies in the number of persons appointed by them.

(*a*) The unions to which this clause applied were Bradford in Yorkshire, Nottingham, Cambridge, Leicester, Reading, and Colchester.

(*b*) If the guardians do not give any direction to the clerk, the town council will not be able to act, and the clause will have no effect. The guardians can, however, at any annual appointment, avail themselves of the assistance of the town council, if they think fit to do so.

(*c*) As it is optional with the guardians to seek the assistance of the town council, so it will be discretionary with that council to decide whether they will render it or not. In the mean time, the committee appointed by the guardians will be empowered to act alone. It must be noticed that only a councillor can be appointed a member of the municipal committee.

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[*] The sections of this Act which are asterisked [*] are repealed as regards the metropolis by 32 & 33 Vict. c. 67, s. 77, and Sch. 5, *post*.

Sect. 4.

Provision for neglect to appoint.

4. If the guardians shall neglect or be prevented from making such appointment at the meeting above specified (*a*), the Poor Law Board shall, by their order, appoint some other day, on which the guardians shall make such appointment.

(*a*) This means the first meeting after the annual election. The clause applies not only where no appointment has been made, but also where the board of guardians have made an appointment in fact, but such appointment fails through some legal defect. If the Local Government Board, which now exercises the powers of the Poor Law Board, have occasion to issue their order, and it be not obeyed, they will be compelled to enforce it by writ of *mandamus*, to be obtained from the High Court of Justice.

Provision for vacancies.

5. If any *ex officio* or elected guardian, being a member of the committee, cease to be guardian, or resign his seat at such committee, or die, or become incapable of acting as such member (*a*), the board of guardians shall, with all convenient speed, appoint an *ex officio* or elected guardian, as the case may be (*b*), to supply the vacancy.

(*a*) A guardian who should become insane, or a paid officer of the union, or should cease to reside within a reasonable distance of it, or, as it seems, who should be appointed a valuer of one of the parishes in it (5 & 6 Vict. c. 57, s. 14), would become incapable of acting as a member of the committee.

(*b*) If the vacancy be caused by the resignation or default of an *ex officio* guardian, and there be no other *ex officio* guardian to supply his vacancy, it is doubtful whether the vacancy can be supplied, as the proviso in sect. 2 appears to apply to the annual appointment of the committee; and in the passage in the text above the vacancy is to be supplied from the class to which the guardian who caused it belonged.

Continuing members may act during vacancies.

6. During any vacancy in any Assessment Committee, the other or continuing members of such committee may act, and shall have the

Sect. 6. same powers and jurisdiction as if no such vacancy had happened (*a*).

(*a*) See 5 & 6 Vict. c. 57, s. 12, to the like effect in reference to the board of guardians.

Extent of committee's authority.

7. The authority of the committee appointed for any union under this Act shall extend over every parish comprised (*a*) in such union.

(*a*) This word excludes such parishes (and there are some few) as are locally situated within the ambit of a union, but are nevertheless not comprised therein. The clause, however, shows that even parishes where there are local Acts regulating the making of the poor rate therein, to which sect. 29, *post*, applies, are nevertheless subject to the Assessment Committee, as they are not excepted in this clause.

First meeting, when to be holden.

8. The committee shall hold their first meeting at the board room of the union on a day to be fixed (*a*) by the board of guardians, and the subsequent meetings of the committee shall be holden at such times, and at such place, and upon such notice and requisition, as they (*b*) shall from time to time appoint (*c*); and any guardian of the union may be present at any meeting of the committee, but shall not be entitled to take part in the proceedings thereof (*d*).

(*a*) It seems that this part of the clause only applied to the committee when first appointed, and does not apply to the appointments made annually at the meetings after the first election. There could be no object for such continued action on the part of the board of guardians.

It has been considered that the committee is a continuing body, so that the business before it is carried on from the committee meeting at the close of the year to that of the new committee, in like manner as the proceedings of a board of guardians after the annual election. A different construction would create great confusion.

(*b*) That is, the committee. The further proceedings

Note to Sect. 8.

of the committee, with the exceptions hereinafter to be noticed, will be free from the control or interference of the board of guardians. That board, if dissatisfied with the conduct of the committee, can only interfere at the next annual appointment, by changing the members of the committee.

The committees have sometimes found it convenient to lay down some rules for their own guidance in the discharge of their duties, though they have no power to conclude their successors so as to prevent them from altering or rescinding such rules.

(*c*) If the committee omit to prescribe the notice or requisition as to the time of meeting, it seems to be competent for their clerk to summon them to meet at any time when it becomes necessary. It is not requisite that any meeting should be formally adjourned to the next appointed time. As the Act 27 & 28 Vict. c. 39, enables any ratepayer to bring his case before the committee at any time, it is obvious that they may be called together oftentimes at unexpected or unappointed days, and to avoid this they should prescribe certain fixed days at precise intervals for their regular meetings, when they can deal with the matters which may arise. These days should be fixed at such periods that no ratepayer can complain of a failure of justice by reason of the delay of the committee in hearing his complaint.

(*d*) It is to be observed that only a guardian of the union is here mentioned, and therefore no other person, whether overseer or ratepayer of any parish in the union, can claim to be present at the meetings as a matter of right, except the parties to the appeal provided for hereafter. But the minutes of their proceedings are to be open to the inspection of any ratepayer of the union (see sect. 11, *post*). The committee may, however, if they think fit, admit any person besides their fellow guardians to be present.

Inquiry has been made whether a guardian can insist upon being present when the committe are deliberating upon their decision. His presence may be calculated to disturb their deliberations or to influence them to a wrong decision; on the other hand it may be desirable that he should know the course adopted by the different members of the committee. It appears to be incidental to all judicial tribunals to be competent to retire from their audience for the purpose of discussing and framing

Note to Sect. 8.

their judgment, and there seems to be no reason why such a rule should not prevail in the present instance. Therefore the committee can require the guardian and other strangers to withdraw while they deliberate upon their judgment. The Poor Law Board adopted this view and advised accordingly.

Quorum of meetings.

9. All acts, orders, matters, and things by this Act authorized or directed to be made or done by the committee, may be (*a*) made or done by the major part (*b*) of the members of such committee who shall be present at a meeting, the whole number present together at such meeting not being less than three, and not less in any case than one-third of the whole number of which such committee consists; and when upon any question there shall be an equality of votes, the presiding chairman shall have a second or casting vote (*c*).

(*a*) Notwithstanding the form of expression here used, it must be considered that no business can be done legally unless there be three at least, and one-third of the number of the committee present, so that there must always be three. Hence in a committee of six, one-half must be present, and in a committee of ten or twelve there must be four.

(*b*) As a difficulty has arisen upon similar words in other statutes, it is right to state that the rule laid down by the following cases is, that where there is to be a majority of the persons present, that majority must be calculated by reckoning not merely the persons who vote upon the particular question, but all those who are present at the meeting when it is submitted to the vote. See *Ex parte Eynsham*, 13 Jur. 345; 12 Q. B. 398: *Reg.* v. *Griffiths*, 17 Q. B. 164: and *Reg.* v. *The Overseers of Christchurch, Spitalfields*, 26 L. J. R. M. C. 68; 7 E. & B. 409.

(*c*) The chairman may have voted, and then he will be entitled to a second vote, or he may not have voted, and then he will have a casting vote. There is no provision as to the mode of voting, hence it is competent for the

committee to determine any question by vote taken by a ballot if they think fit. Nevertheless the general practice is, and is likely to be, by open voting. Note to Sect. 9.

10. The committee shall employ the clerk or assistant clerk (*a*) of the board of guardians as their clerk (*b*), with such remuneration for his services as the Poor Law Board shall sanction. Committee may employ and pay clerk.

(*a*) By the assistant clerk is meant the officer appointed by the guardians, with the consent of the Local Government Board, under the Consolidated Order, to assist the clerk, and not the person who may, in fact, assist the clerk in the discharge of his duties with or without the acquiescence or connivance of the guardians. This latter person holds no office of responsibility, except to his own master or employer.

(*b*) This section does not in terms render it compulsory upon the clerk or assistant clerk to undertake the duties, but it is very inconvenient that he should refuse to do so. The Consolidated Order has not made it part of the clerk's duties to attend the committees of the guardians, but the guardians may themselves require him to do so, and such an order would be one which he must obey. Still, in a few cases, the guardians have found it necessary to appoint a person to be clerk to the committee, who was not their clerk or assistant clerk.

The question of compensation was obviously one so difficult to determine, that it was reserved for the result of experience. Any decision given at the commencement of the operation of the Act would, in many cases, have caused dissatisfaction either to the clerk or the guardians. The experience of the working of the Act has facilitated the forming of a just estimate. As the Local Government Board are to sanction the payment, they require the proposal of the allowance, which, however, is to be settled by the committee, to come from the board of guardians in the first place. The Board in most cases declined to give any decision until all the valuation lists had been completely settled and approved, and the general practice has been to give a compensation for the services, and not to increase the fixed salary. Indeed, it seems that the salary of the clerk of

Note to Sect. 10.

the guardians cannot be increased permanently, because the committee are to allow the compensation for the service rendered, and not the board of guardians. Every committee must exercise their own judgment in the matter, and they would be precluded from doing so if the clerk's salary in respect of this matter had been previously settled by a former committee, or by the board of guardians, or the Local Government Board. The compensation is to be allowed from time to time, and is not settled once for all. The clerks and boards of guardians have often overlooked this, and the auditors have disallowed payments made to the clerks without the sanction of the Central Authority.

The 38th section, *post*, provides for the charge of this remuneration.

In making his claim it is necessary for the clerk to discriminate between the amount claimed for the services which he renders as the clerk of the committee, and those which he renders beyond the scope of his official duty. The Local Government Board deal with the former and not the latter, which is exclusively for the allowance of the committee. The keeping of the minutes, the conduct of the correspondence, the attendance on the committee at their meetings, the summoning of the witnesses and other persons by direction of the committee, and the making copies of documents for them, are instances of services which fall within the scope of the clerk's duties. But when the clerk performs duties for the committee which they ought to do for themselves, as where he makes calculations or estimates of the value of property, or makes alterations of the valuation lists under specific directions, and not merely recording the decisions of the committee, he acts beyond the scope of his duties. The Poor Law Board considered that where he made the copies of the approved valuation lists for the board of guardians according to sect. 31, *post*, he also acted beyond his duty. This is, perhaps, an opinion very favourable to the clerk.

The giving of advice or information to persons who apply to the clerk personally, and not to the committee, is a gratuitous proceeding for which he cannot claim compensation from either the committee or the guardians. The 31 & 32 Vict. c. 122, s. 31, provides for his remuneration when he supplies certified copies for lost or destroyed lists.

Sect. 11.

Proceedings to be entered in books, and signed.

11. The committee shall cause a minute (*a*) of their proceedings, and of the names of the members who attend each meeting, to be duly made from time to time in books to be provided for that purpose, which shall be kept by their clerk, under their superintendence (*b*), and every such entry shall be signed (*c*) by the presiding chairman of the Assessment Committee present at the meeting at which the proceeding took place; and such entry, purporting to be so signed (*d*), shall be received as evidence in all courts, and before all judges, justices, and others, without proof of such meeting having been duly convened or held, or of the persons attending such meeting having been or being members of the committee, or of the signatures of the members (*e*), all of which facts shall be presumed until the contrary be proved; and all such books (*f*) shall, at all seasonable times (*g*), be open to the inspection of every person rated to the relief of the poor in any parish or place in the union, without any fee being demanded for such inspection; and all such persons shall be entitled at all seasonable times (*g*) to take copies or extracts from the said book (*h*), without paying any fee for the same; and if, on request made for that purpose, the clerk of the committee refuse (*i*) to permit any such person to inspect any such books, or to take copies or extracts therefrom, as aforesaid, such clerk shall for every such offence be liable to a penalty not exceeding five pounds, upon a summary conviction for the same before two justices of the peace.

Such entries evidence.

Books to be open to inspection.

(*a*) The committee can determine with what brevity or completeness this minute shall be kept, but it will be

Note to Sect. 11.

generally most advisable to follow the course which prevails in regard to the minutes of the board of guardians, though it will be observed that the statute gives greater legal authority to the record of the proceedings of this committee than attaches to the ordinary minutes of the board of guardians, inasmuch as it is made evidence of the regularity of the proceedings of the committee. But to insure this result, strict attention must be paid to the requisitions of this clause as to the keeping of the minutes. A minute, which records a proceeding by reference to any entry in some other book, not producible, would not be a proper one within the spirit of this clause. It is right to observe that the clerk, in recording the decision of the committee in any case where they are not unanimous, should set forth the numbers of the votes on the question, though he is not required to set forth the names of the members voting without specific directions from the committee to do so.

Important letters received, as also the drafts of such as are written by the direction of the committee, should be preserved. A letter book should be kept for the purpose of preserving these documents, where the committee do not expressly order them to be entered on the minutes.

(*b*) These words seem only to imply what is stated in the preceding note, as it cannot be meant that the committee shall be at liberty to suppress or erase the true record of their proceedings.

(*c*) This signature need not be affixed at the meeting whose proceedings are recorded. Indeed such a course would be for the most part impracticable, and though the minutes need not be confirmed at the next meeting, it will be convenient that this should be done, and then the chairman, if present, can sign them. Care must be taken, however, that they are signed by the proper chairman.

(*d*) That is, signed by the proper chairman, namely, the chairman of the meeting whose proceedings are recorded.

(*e*) The only members required by the previous part of the clause to sign are the presiding chairmen. This provision corresponds with that in the 10 & 11 Vict. c. 16, s. 55. This enactment does not render irregularity unimportant, it only shifts the burthen of proof. *Primâ*

facie, everything is to be presumed to have been regular, though the contrary may be proved. Note to Sect. 11.

(*f*) Note, that only the minute books are open to inspection; but by the 27 & 28 Vict. c. 39, s. 4, see *post*, the valuations made under the authority of the committee are to be open to inspection in like manner as the minutes.

(*g*) In the 10 & 11 Vict. c. 16, s. 55, the word *reasonable* is used instead of *seasonable* as in the text. There is no legal definition of these words. But it seems to be a proper interpretation to hold that the application should be made within the ordinary usual hours of business in the union, and at a time when the minute books are not in use, either by reason of the sitting of the committee or of the engagement of the clerk in making entries therein.

(*h*) See in sect. 17, *post*, the authority given to overseers and ratepayers to inspect and take copies of and extracts from valuation lists transmitted to the committee. Sect. 31 provides for the inspection of the approved valuation list deposited in the board room or other place in the union.

(*i*) This request need not be made in writing, but if it be expected that the clerk will not allow the inspection, it will be advisable that it should be so made. The refusal must be one for which there can be no legal excuse. It may be that the clerk can show some good ground for the refusal to permit the inspection in the particular case or at the particular time, and if so it cannot be properly held that he must nevertheless be liable to a penalty. The words *as aforesaid* seem to refer to the seasonable times mentioned in the previous part of the clause.

Proceedings of committees to be reported.

12. The board of guardians shall in the month of April in every year report the proceedings of their Assessment Committee to the Poor Law Board (*a*).

(*a*) The Local Government Board circulate general forms in which this report may be framed. The reports have been tabulated, and the statistical results have been annually presented to the House of Commons pursuant to orders of that House.

Sect. 13.

Committee may require returns from overseers, &c.:

13. The committee (*a*) by their order (*b*) may from time to time require the overseers, assistant overseers, constables, assessors, collectors, and any other persons having the custody of any books of assessment of any taxes or rates, parliamentary (*c*) or parochial (*d*), or of the valuations (*e*) of any parish, or having the collection or management of any such taxes or rates, to make returns in writing to the committee, at such times and places as they may appoint, of all such particulars as they may direct in relation to such taxes, rates, or valuations, or any property included therein, so far as relates to the union for which they act (*f*), and may require the persons having the custody of any such books as aforesaid to make and transmit to the committee copies of or extracts from such books, or to permit such copies or extracts to be made by such persons as the committee may in that behalf direct (*g*);

and may require production of rates, &c., and examine persons attending before them.

and may from time to time require any persons having the custody of any such books, or the collection or management (*h*) of any such taxes or rates as aforesaid, to attend before them at a time and place to be mentioned in the order in this behalf, and to produce all parochial and public books of assessment, rates, rate books, valuations, apportionments, tithe and other maps, plans, surveys, and other public documents in their custody or power, and may examine (*i*) all persons who shall attend before them: Provided always, that nothing herein contained shall authorize the production of valuations or assessments which by any provision of law at present are not suffered to be made public (*k*).

Note to Sect. 13.

(*a*) This clause is similar to that contained in the 15 & 16 Vict. c. 81, s. 7, which provides for the making of the county rate, though it is not so extensive in one respect, inasmuch as the latter applies to *all persons whomsoever*, whereas the clause in the text is confined to persons having the custody of the assessments, or the collection or management of any of the taxes referred to. On the other hand, the text applies to parliamentary taxes in words, but not so the clause in the County Rate Act.

(*b*) As to the form and service of such orders see sect. 41.

(*c*) This word is understood to apply to the property and income taxes and the assessed taxes, which are usually termed parliamentary taxes.

(*d*) This word is not confined to poor rates, but extends to all rates made for a parish or similar district.

(*e*) These are for the most part such as have been made under the statute 6 & 7 Will. 4, c. 96, s. 3.

(*f*) Note carefully the limitation of the district whose officers may be summoned before the committee. It is presumed that an officer who acts for a district which extends beyond the union is nevertheless liable to be summoned with reference to parishes in the union.

(*g*) As to the remuneration for these services see sect. 37, *post*. Some committees have found it more advisable to send a person to make copies or extracts from public documents, than to compel the production of such documents before them.

(*h*) These words have a very extensive application, but they are limited by the context to such persons who, managing any tax or rate, have the books or documents in their custody or power. Some question has arisen in regard to the production of tithe maps. They are in the custody of the incumbent and churchwardens (see 6 & 7 Will. 4, c. 71, s. 64), and it was urged that the incumbent is not referred to in this clause. But the churchwardens being included under the term "overseers," they have the collection of the poor rate, and can be properly required to produce the tithe map, which is in their custody or *power*. It is important to observe this last word, as in many cases, though officers may not have those books in their actual possession, they may have full power of obtaining the possession.

It has been pointed out that the overseers who go out

Note to Sect. 13.

of office at Lady-day cannot be summoned before the committee of the subsequent year. This appears to be true, but such overseers may attend voluntarily, and their successors, who must attend, will generally be equally well informed as their predecessors.

(*i*) No power is given to the committee to examine upon oath. But sect. 40 provides penalties for refusal to attend, or to give evidence, or to produce documents, and for giving false evidence.

(*k*) The Income Tax Act, 5 & 6 Vict. c. 35, does not contain any express provision which requires any valuation or assessment under that Act to be kept secret. But the several oaths of the commissioners, inspectors, and surveyors, assessors, collectors, and clerks therein prescribed, contain promises by them not to disclose any particular or other information relating to the duties charged under Schedule D., which refers to the duties upon incomes derived from trades and professions. The production, therefore, of any accounts or valuations by them which relate to that particular schedule would be a violation of the oath. It may, therefore, be properly considered that the production of documents relating to that schedule would be contrary to the law. No prohibition exists in reference to the other schedules of the Income Tax Act. The returns made by the occupiers of lands and houses under Schedules A. and B. were, upon the passing of the Act, open to inspection, and were generally found in the possession of the clerks to the local commissioners. But the Schedule A. in many places contained information in reference to certain properties which partook of mercantile or commercial enterprise, and thus disclosures were made which were prohibited in reference to Schedule D.

This led to some dissatisfaction, and by the statute 26 & 27 Vict. c. 33, s. 22, reciting that, "Whereas the Assessment Committee provided for by 'The County Rates Assessment Act,' section fifty-two, and by 'The Union Assessment Committee Act, 1862,' respectively, are thereby empowered to require assessors, collectors, and other persons therein mentioned to make and transmit copies of or extracts from the books of assessment of any taxes or rates in their custody, and to produce such books as therein mentioned," it was enacted, "that nothing in the said Act contained shall extend to authorize or empower the said committee to require any

assessor, collector, or other person employed in the assessment or collection of *the income tax* to make or transmit or to permit any other person to make, copies of or extracts from any assessment, rate, or rate book, or any document relating to the assessment or collection of the income tax upon profits of trade for or in respect of any quarries, mines, ironworks, gasworks, or other concerns in the nature of trade or manufacture chargeable under Schedule (A.) of the Income Tax Acts, *or* to attend before the said committee *to produce* any such assessment, rate, or rate book, or other such document as aforesaid, or to be examined by or before such committee touching or concerning the same." Upon this clause the Inland Revenue Commissioners have advised that the assessor cannot be required to attend and produce the assessment under Schedule A., even with reference to other hereditaments than those referred to in the clause. There is, however, no prohibition upon the assessor to make copies of or extracts from the assessment in respect of other hereditaments, if required by the committee to do so. The County Rate Act, 15 & 16 Vict. c. 81, s. 7, empowers the justices to require the clerks to the income tax commissioners to supply them with the total amount of the assessment for the parishes within their jurisdiction, but it does not extend to the separate valuation of the tenements in the parishes.

Note to Sect. 13.

Overseers to prepare valuation lists.

14. [*] Subject to any order as hereinafter referred to (*a*) which may be made by the committee, the overseers (*b*) of each parish in the union shall, within three calendar months after the appointment of such committee (*c*), make a list of all the rateable (*d*) hereditaments in such parish, with the annual value thereof respectively, in so much of the form shown in the schedule annexed to the Act sixth and seventh William the Fourth, chapter ninety-six, as is set out in the schedule to this Act (*e*); and unless such overseers (*f*) think that the valuation then last acted upon in assessing the rate for the relief of the poor correctly shows the full

Sect. 14. annual rateable value of all such hereditaments, they shall revise such valuation (*g*), and such overseers shall sign every list so made by them as aforesaid, and such list shall be styled "the valuation list."

(*a*) See next section, which enabled the committee to extend the time for the return of the list for any period.

(*b*) This word includes the churchwardens. Many lists have been signed by the overseers only, and the case of *Morgan*, app., *Parry*, resp., 17 C. B. (*N. S.*), 334, leads to a strong inference that such lists so signed would not be void. But whether they are void or not, it is clear that they are not regular, and where there is an opportunity, if they be so presented to the committee, they should be returned for complete signature. There is no reason, however, why the assistant overseer appointed under 59 Geo. 3, c. 12, or the vestry clerk, appointed under the 13 & 14 Vict. c. 57 (one of whose duties, as set out in sect. 7, is to make all returns required of the overseers by law or competent authority), should not prepare the list for the overseers. When this is done, there may occasionally be ground for an increase in the salary of such officer if the labour to be spent upon this work is likely to be very great. But the provision in the Act, 27 & 28 Vict. c. 39, s. 7, *post*, for the reimbursement to the overseers of expenses which they incur, should be consulted.

(*c*) An opinion was entertained that there was to be an annual revision of the valuation lists, but it was not correct. One list was to be prepared, and new valuation lists or supplemental lists are to be supplied only as occasion may require, according to sect. 26. The Poor Law Board, on the 1st March, 1864, addressed a letter to all Unions on this clause, for which see Appendix, *post*.

(*d*) This word must not be overlooked. It is only such hereditaments as are rateable in their nature which should be returned, as to which see *Reg.* v. *Malden*, Law Rep. 4 Q. B. 326, noticed hereafter. Property exempted by reason of special local Acts, or by the application of some general rule of law, is not to be included. See sect. 36, *post*.

(*e*) Houses newly erected and not yet occupied are rateable hereditaments within the meaning of 25 & 26 Vict. c. 103, ss. 14, 20, and 25, and ought therefore to be inserted in the valuation lists. *Malden* v. *Kingston*, 38 L. J. M. C. 125; 33 J. P. 645. S. C. *Reg.* v. *Malden*, L. R. 4 Q. B. 326; 10 B. & S. 323. Note to Sect. 14.

(*f*) It is to be observed that the overseers—which word, as above noticed, includes the churchwardens—were alone to determine the correctness of the existing valuation, and, if necessary, to revise it. They might consult the vestry, or some of the ratepayers in the parish, if they thought proper; but as this might lead to partial interferences with the rate, it was deemed for the most part that the safest course was for them to return the valuation which had been acted upon, with such alterations as regarded names and particulars as the overseers deemed necessary, leaving the correctness to be settled by the committee. In practice, however, a committee of inhabitants or vestrymen has been very frequently appointed to assist the overseers in the preparation of the lists, and a similar course is sometimes pursued in providing supplemental or substitutional lists. The members of the committee have been required to act gratuitously. When they have received remuneration, either for loss of time or for payment of their expenses in refreshments, and the auditors have disallowed the amount, the Poor Law Board refused to remit the disallowance. No authority has been given by the subsequent Act for remunerating such committee.

(*g*) See in the statute 27 & 28 Vict. c. 39, s. 7, the provision for reimbursing the overseers monies expended by them in providing a new valuation.

Definition gross estimated rental.

15. [*] The gross estimated rental (*a*) for the purpose of the schedule to this Act shall be the rent at which the hereditament might reasonably be expected to let from year to year, free of all usual tenants' rates and taxes, and tithe commutation rentcharge, if any (*b*): Provided that nothing herein contained shall repeal or interfere with the provisions contained in the first section of the said Act (six and seven *William* the Fourth, chapter ninety-six,) de-

Sect. 15. fining the net annual value of the heredita-ments to be rated.

(*a*) The 6 & 7 Will. 4, c. 96, s. 1, gives the definition of net annual value, but that statute does not define the term "gross estimated rental," though it is used therein. This clause defines that term by adopting part of the definition of "net annual value" from that Act. But it will be observed that the definition is only "for the purpose of the schedule to this Act." That is to say, in making out the valuation list, the column "gross estimated rental" is to be filled by an estimate of the rent calculated as above. It is not necessary to enter here into the controversy as to the meaning of the 1st section of the Parochial Assessment Act, but it cannot be said that the controversy is settled by this clause. It has been considered that the word *free* in that section was used instead of *subject to*, but it will be seen that the word *free* is now repeated. See the remarks on page , *ante*. There is, however, a careful reservation of the definition of "net annual value" contained in the 6 & 7 Will. 4, c. 96, which see in the Appendix.

"The Valuation Metropolis Act, 1869," repeals this clause in the Metropolis, and contains a definition of "gross value" and "rateable value," but not of "gross estimated rental."

(*b*) Where the tithes have been commuted under any local Act for a rent payable free of rates, no entry should be made in the valuation list of this tithe rent as a separate hereditament, because it is not "a rateable hereditament." A difficulty has been experienced by many committees in dealing with properties where the tithe has been commuted under local Acts, for rents payable to the tithe-owner free of rates and taxes. In these cases the tithe-owner is not liable to be assessed to the poor rate; but, it is asked, are the occupiers to have a deduction in respect of the tithe rentcharge so paid to the tithe-owner? If so, the total rateable value of the parish will be less in comparison with that of the adjoining parish where the tithe has been commuted under the provision of the 5 & 6 Will. 4, c. 71. Nevertheless, it seems difficult to understand how the occupiers of the land affected by such local Acts can be prevented from claiming the deduction in respect of the rentcharge which they pay to the tithe-owner, and which *pro tanto*

diminishes the annual value of the land to them; whilst, if the contribution of the parish to the common fund be calculated upon more than the actual assessable value of the hereditaments in the parish, a great hardship will be imposed upon it. Note to Sect. 15.

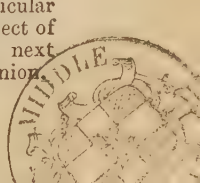
The case of *Hackett, appellant, The Overseers of Long Bennington, respondents*, 9 L. T. 769; 16 C. B. (N. S.) 38, may be referred to, but it does not decide the above question, as it was determined upon the special terms of the particular local Act involved in the case.

Committee may enlarge the time for making valuation lists, and may give directions concerning valuations and valuation lists, and may appoint persons to make the same.

16. The committee by their order (*a*) may from time to time enlarge the time within which the first valuation lists under this Act shall be made by the overseers of all or any of the parishes in the union, and (*b*) for ensuring a uniform and correct valuation of every parish in the union (*b*) may direct that any existing valuation of the rateable hereditaments in any parish be revised, in whole or in part, or a new valuation of such hereditaments be made by the overseers; or the committee may (*c*), with the consent of the board of guardians of the union, after notice shall have been sent to every guardian thereof, in any case, appoint some person for either of the purposes aforesaid (*d*), and may direct such person to make and sign the valuation list instead of the overseers, and every valuation list so made and signed shall be delivered by such person to the overseers of the parish to which the same relates.

(*a*) As to this order see sect. 41, *post*. The committee may issue this order either of their own accord or upon the application of the overseers.

(*b*) These words do not appear to have any particular effect, though they emphatically point out the object of this new valuation, and show that the proceedings next mentioned will be for the common benefit of the union.



Note to Sect. 16.

(*c*) Under this authority the committee can obtain an independent valuation of a parish, but they must be careful to obtain the consent of the board of guardians to their doing so. It does not appear that the board are required to consent to the person to be appointed, but it is probable that they may decline to give their consent to any appointment unless they know who is to be appointed. They must bear in mind that the cost of the valuation may, perhaps, fall upon the common fund. Though the committee may find it necessary to have several parishes revalued, it seems that there must be a separate proceeding for each. An appointment of a valuer to value all the parishes of the union together does not appear to be warranted. Indeed, as the payment for this valuation depends upon the result with reference to the first valuation list sent in, it is obvious that unless the contracts for the valuations are duly and separately distinguished it would be impossible to ascertain how the cost should be charged.

If the committee should appoint a guardian of the union to be the valuer, it seems that he will become disqualified to act as a guardian by reason of the 5 & 6 Vict. c. 57, s. 14.

A similar power of appointing a valuer is given to the justices by the 15 & 16 Vict. c. 81, s. 9, which clause indeed authorizes the surveyor to enter lands or houses in the parish to survey and value the same. And the same authority is given by the 6 & 7 Will. 4. c. 96, s. 4, to the surveyor appointed by the guardians under sect. 3 of that Act. No such power of entry is given to any surveyor appointed by the committee, but it will be seen hereafter in sect. 33 that where the court of quarter sessions order a survey to be made, the surveyor has authority to enter upon and survey the hereditaments liable to the assessment. Where inspection, internal or external, is refused, the overseers or committee must make their own estimate upon the whole of the evidence before them, and the ratepayer may appeal against the rate if he feels aggrieved. If his rate be reduced the justices will probably refuse to allow him the costs of his appeal.

(*d*) That is, either to revise an existing valuation or to make a new valuation. There is some doubt as to what is meant by revising the valuation, but probably reference is made to those parishes where professional

valuations have been provided under the 6 & 7 Will. 4, c. 96, s. 3, in past time, and where consequently some of the rateable hereditaments may have become changed in value.

Note to Sect. 16.

Valuation lists to be deposited for inspection, and afterwards transmitted to the committee.

17. The valuation list for each parish, made and signed by the overseers (*a*), or delivered to them as hereinbefore provided (*b*), shall be deposited by the overseers in the place in such parish in which rate books are deposited (*c*) or kept [and a copy of such valuation list shall be forthwith delivered to the board of guardians (*d*)], and the overseers shall give public notice of the deposit of such list on the Sunday next following the deposit of such list, and such notice shall be given in the same manner, and all persons assessed or liable to be assessed to the relief of the poor of such parish shall have the like right of inspecting, and of demanding and taking copies of and extracts from such list, as in the case of a poor rate allowed by the justices (*e*); and the overseers shall, at the expiration of fourteen days from the time of the notice given of the deposit of such list, transmit the same to the committee (*f*); and any overseer or other ratepayer (*g*) within the union shall have the right of inspecting and taking copies of and extracts from any of the lists so transmitted (*h*).

(*a*) See sect. 14.

(*b*) See the last section.

(*c*) The 7 & 8 Vict. c. 101, s. 33, requires the rate books to be deposited at the house, within the parish, of some one of the overseers or other officers employed in the parish in carrying the poor law into execution, or of the collector or assistant overseer, or some other house within the parish. Charges have been made of payments to persons engaged to take custody of the houses or premises where these lists are deposited, but the auditors

Note to Sect. 17.

have in many cases disallowed those charges as illegal and (according to Mr. Lumley) properly as it seems.

(*d*) This is not for the committee, and is not, therefore, to be delivered by the guardians to them, but apparently it is for the inspection and perusal of the board of guardians, and perhaps of the overseers and ratepayers of other parishes in the union. It does not appear who is to make the copy and deliver it to the board of guardians. The overseers will be justified in doing so, and probably the guardians will also be justified in compensating the overseers for the trouble or costs which they may incur, though the committee will have nothing to do with this charge.

The words in brackets are repealed in the Metropolis by 32 & 33 Vict. c. 67, s. 77, and Sch. 5, *post*.

(*e*) The statutes 17 Geo. 2, c. 3, s. 1, and 1 Vict. c. 45, s. 2, provide for the notices of the poor rate, and according to the latter the notice must be in writing, and must be affixed on or near to the doors of all the churches and chapels within the parish previously to the commencement of divine service. It has been held, as regards notice of the poor rate, that it need not be affixed to the chapels of dissenters. *Ormerod* v. *Chadwick*, 16 M. & W. 367.

The statute 17 Geo. 2, c. 3, s. 2, provides for the inspection of the poor rate by any inhabitant of the parish, and the demand and supply of copies thereof. The 6 & 7 Will. 4, c. 96, s. 5, provides for the ratepayers taking copies or extracts from the poor rate. When the overseers are required to allow an inspection of the poor rate they are entitled, by the statute of George the Second, to a fee of 1*s*., and if they supply a copy, they are entitled to be paid at the rate of 6*d*. for every 24 names. When the ratepayer makes his own copy or extract from the poor rate he is not liable to make any payment for the same.

The 43 & 44 Vict. c. 19, s. 39, provides for inspection of valuation lists, by land tax commissioners, surveyors, and assessors.

(*f*) It has been considered that the overseers may take the list to the committee and personally deliver it to them, and need not send it through the post or by messenger. If they deliver it personally, and make reasonable charge for the expense of their journey to the committee, the auditor would be justified in allowing it. In reference to the allowances to overseers who proceed, in the discharge of the duties of their office,

out of their own parish, see the remarks of the Poor Law Commissioners, in 3 *Off. Cir.* p. 50. Note to Sect. 17.

(*g*) See, as to the meaning of this word, the note on sect. 31, *post*. The more correct expression would have been "any overseer or ratepayer of any other parish within the union."

(*h*) The object of this provision is the supply of information to other parishes, with the view of obtaining a uniformity of assessment among all, and it takes effect when the list reaches the committee.

Objections to valuation list.

18. Any overseer or overseers of any parish in any union who shall have reason to think that such parish is aggrieved by the valuation list of any parish within such union, or any person (*a*) who may feel himself aggrieved by any valuation list on the ground of unfairness or incorrectness in the valuation of any hereditaments included therein, or on the ground of the omission of any rateable hereditament from such list, may (*b*) at any time after the deposit as aforesaid of such list, and before the expiration of twenty-eight days after the notice of the deposit as aforesaid, give to the committee and to the overseers (*c*) a notice in writing of his objection, specifying the grounds thereof, and, where the ground of any objection shall be unfairness or incorrectness in the valuation of any hereditament in respect of which any person, other than the person objecting, is liable to be rated, or the omission of such hereditament, also give notice in writing of such objection, and of the ground thereof, to such other person (*d*).

(*a*) By the Poor Rate Assessment and Collection Act, 1869, 32 & 33 Vict. c. 41, s. 13, every owner of any hereditament for the rates of which he has become liable shall have the same right of appeal (subject to the same conditions and consequences) against the

Note to Sect. 18.

valuation lists and the poor rates as if he were the occupier thereof.

(*b*) As the bill was framed, the right of objecting was only given to some ratepayer in the parish, and all such persons would have had notice of the time of deposit of the valuation list; in the committee of the House of Commons, however, the power of objecting was also given to the overseers of any other parish in the union, and also to any person who may feel himself aggrieved, which words appear to include a ratepayer of another parish; but although a limitation of time is imposed upon the objections, which dates from the notice of deposit, there are no means by which the overseers or ratepayers of the other parishes can necessarily learn the date of such deposit, so as to know the precise time within which they must give the notice. Still the notice must be given, as will be seen by the next section.

It is observable that the ground of the improper insertion of an exempt property is not mentioned in this clause, though that of the omission of a rateable hereditament is. Therefore the former is not the ground of objection under this section.

(*c*) These must be the overseers of the parish whose valuation list is objected to. As to the service of the notice upon the committee, see sect. 42, *post*. As to the provision empowering a person at any time to appeal to the committee, see 27 & 28 Vict. c. 39, s. 1, *post*.

(*d*) This is analogous to the provisions contained in the 17 Geo. 2, c. 38, s. 4, the 41 Geo. 3, c. 23, s. 6, and the 6 & 7 Will. 4, c. 96, in reference to appeals against the poor rate.

Committee to hold meetings to hear objections.

19. The committee shall hold such meetings as they may think necessary for hearing objections to the valuation lists, and shall, twenty-eight days at least (*a*) before holding every meeting for hearing objections to valuation lists, other than meetings by adjournment, cause notice of such meeting to be given to the overseers of the several parishes (*b*) to which such lists relate, and such overseers shall, on the Sunday next following the receipt of such notice, publish the

same in the manner (*c*) in which notice of a rate allowed by justices is by law required to be given; and the committee may at any such meeting hear and determine such objections (*d*), or may from time to time adjourn any such meeting, and adjourn or postpone the hearing or further hearing and determination of any such objections, and may, where they think fit, direct notice of any such objections to be given by the overseers or by the persons objecting to third parties (*e*) before the further hearing thereof; but the committee shall not be required (*f*) to hold a meeting for hearing objections to the valuation list of any parish, unless such notice in writing as hereinbefore mentioned (*g*) of some objection or objections thereto have been given to the committee; and where a meeting is holden for hearing objections to the valuation list of any parish, the committee shall not hear any objection to such valuation list unless such notice as aforesaid (*h*) of such objection have been given to the committee and to the overseers, and, where the ground of such objection is unfairness or incorrectness in the valuation of any hereditament of any other person than the person objecting, or the omission of such hereditament, also to such other person (*i*) by the person objecting; except where the overseers, by themselves or any other person (*k*) on their behalf, and in the case aforesaid such other person as aforesaid, by himself or any other person (*l*) on his behalf, consent to the hearing of such objection, and in such case the committee may (*m*), if they see fit, hear the same; and where the committee see fit to hear the same, they shall act in relation thereto in like Sect. 19.

Sect. 19. manner as if notice of such objection had been duly given.

(*a*) According to the established construction of these words, both days must be inclusive. See *Rex* v. *JJ. of Shropshire,* 8 A. & E. 173; S. C. 3 N. & P. 386; 7. L. J. R. (N.S.) M. C. 56. It does not appear to be necessary for the committee to make inquiry as to whether all the requisites of the Act have been complied with by the overseers before they enter upon an examination of the list.

(*b*) This notice is not required to be given to the overseers of any other parish who may make objection, yet it is advisable that this should be done, otherwise they may be concluded from bringing forward their objections at this meeting. See in sects. 41, 42, the provisions for the authentication and service of notices.

(*c*) See note (*e*) on sect. 17, *ante.* If this notice be not duly published, it will be competent for the committee to adjourn the meeting until the proper notice shall have been given.

(*d*) Though it is not expressly provided that the parties are to be present, the committee cannot be advised to proceed to determine the matter in the absence of the parties interested, unless they reject the objection when the objector does not appear. A question has been asked whether the parties may appear by their solicitor? It seems that the decision of this question rests with the committee, and that they may, in the exercise of their discretion, allow such appearance, or indeed of the appearance of any other agent on behalf of the parties.

(*e*) This appears to apply to cases which are not within sect. 18, otherwise this direction would be superfluous.

(*f*) A question of jurisdiction would seem to arise here as to whether the committee can, if they think fit, hold a meeting to hear objections where no notice of the objection shall have been given to them, although they cannot be compelled to do so; but the following part of the clause, which prevents the committee from hearing objections of which no notice shall have been given to them and the overseers, and the other parties interested, gives them authority to do so if the default of the notice is waived.

(*g*) See last section. The meaning of this passage appears to be that the committee shall not decide any objection against a person interested, without such person having an opportunity of being heard, as, according to sect. 20, the committee may correct a list upon any information supplied to them. The 27 & 28 Vict. c. 39, s. 2, enables a party aggrieved to appeal to the committee at any time, and requires the committee to hear the complaint.

Note to Sect. 19

(*h*) See note (*g*), *supra.*

(*i*) Such person may be the solicitor of the overseers.

(*k*) Such person may be the solicitor, bailiff, or agent of the person objecting.

(*l*) Note, that even where there is such consent, the committee have a discretion as to hearing the objection or not.

Board may direct further valuation and correct valuation lists, and when corrected to approve the same.

20. The committee may, whether any objection be or be not made to any such valuation list, and either before (*a*) or after any meeting for hearing objections, make such alterations in the valuation of any hereditaments included in any valuation list, and insert therein any rateable hereditament omitted therefrom (*b*), and make such corrections in names, descriptions, and particulars in any valuation list, and upon such information, as to them may seem sufficient (*c*), and may, with the consent of the guardians as aforesaid (*d*), appoint or employ a person (*e*) to survey and value the rateable hereditaments comprised in any such valuation list or any of them, or omitted therefrom (*f*), or may take such other means (*g*) as they may think necessary for ascertaining the correctness thereof; and when the committee have heard and determined all such objections as aforesaid, and have made such alterations, insertions, and corrections in any valuation list as to them may seem proper, they shall approve the same under the hands of three

Sect. 20. members of the committee present at the meeting at which the same is approved, with the date of such approval.

(*a*) The committee will hold ordinary meetings in due course, and at one of them, before that appointed for the hearing of the objections, may nevertheless see cause to make an alteration in some part of a list which is not the subject of objection. In many cases committees, being dissatisfied with the lists sent to them, have returned them to the overseers for correction or alteration. This was an erroneous course of proceeding. It is incumbent upon the committee to make the requisite alterations. The overseers having made, signed, and delivered their valuation lists, were *functi officio*, and had no authority to deal with them again, until they received them from the committee for re-deposit or finally approved of. They may, indeed, receive back the list from the committee, and alter it according to their instructions, but then they will act *ex gratiâ* under the direction of the committee, and may claim the compensation allowed in sect. 37 of this Act. On the other hand, they may decline to do so, and cannot be compelled.

(*b*) As to new houses, see *Malden* v. *Kingston*, *ante*, p. 19.

(*c*) It is to be noticed that no power is given here to strike out non-rateable property if inserted in the list, and unless it is to be considered that the committee can do so under their general power to make the list correct, which it would not be if it contained property not rateable, the party claiming total exemption must apply by appeal to the quarter sessions against the rate, or bring an action of trespass against the overseers who seek to enforce the rate upon his property.

(*d*) See sect. 16. This power does not arise until after the list has been delivered to the committee, and it will be generally advisable that they should not make this appointment where there are objections until they have heard them.

(*e*) As to the payment of the expenses of such valuation, see sect. 39.

(*f*) The text is somewhat incomplete here, though the meaning is not doubtful. When the committee

employ a person to make the valuation, that person is to produce the valuation to them, and they are to peruse it and to correct the valuation list according to the result of that survey and new valuation, and the next clause points out what steps they are then to take before they approve of the valuation list after such valuation has been made. Note to Sect. 20

(*g*) These are very general words, and justify other inquiries than those raised by formal objections. Whatever may be the means taken to bring before the notice of the committee objections to the valuation list presented to them, they may be entertained, and if doubts be caused in their minds, they may take all possible measures for removing them, and may in the result alter the valuation of particular properties, although there may be no proper legal appeal notified to them. Nevertheless they should not make such alterations against the interest of any person without such person having an opportunity of being heard.

It is here right to refer to 31 & 32 Vict. c. 122, s. 32, which provides that "the guardians may upon the application of the assessment committee, after notice sent in the manner prescribed by the Act in the text, appoint some competent person to assist the committee in the valuation of the rateable hereditaments of the Union for such period as they shall see fit, at a salary or other settled remuneration, to be paid out of the common fund."

This person was intended to sit as an assessor with the committee, and to aid them in arriving at a correct judgment upon the evidence submitted to them. It was not contemplated that he should be a partizan, or be employed on the part of the parish, or the ratepayers individually, or of the union.

The appointment rests entirely with the guardians, and is not subject to the control or ratification of the Local Government Board.

Members of Assessment Committee not Liable for Costs.

An assessment committee being respondents in an appeal against a poor rate, an agreement was entered into which was expressed to be made between the appellants and the assessment committee for and on behalf of the guardians, and by which the rateable value of the subject matter of the rate was referred to arbitration,

Note to Sect. 20.

the costs of the reference and award to be in the discretion of the arbitrators. The award was in favour of the appellants, and directed the "other party" to pay the appellants' costs of the reference and the costs of the award. Upon an action being brought against the assessment committee and certain members of the committee to recover the costs, it was held that an action would not lie against the assessment committee to recover them, as they merely acted on behalf of the guardians, who were the "other party" to the reference: *Leicester Waterworks Co.* v. *Nuttall*, L. R. 4 Q. B. D. 18; S. C. *Leicester Waterworks Co.* v. *The Assessment Committee of the Barrow-on-Soar Union*, and *Nuttall* v. *Sheffield*, 39 L. T. (N.S.) 624; W. N. 1878, p. 241; 43 J. P. 207. Held also, that a reference to arbitration did not come within 25 & 26 Vict. c. 103, s. 20.

Valuation list when altered to be deposited, &c.

21. Where the committee make any alteration in the valuation of any hereditaments included in, or insert therein any rateable hereditament omitted from, any such valuation list, they shall cause such valuation list, with such alteration or insertion, to be deposited for inspection in manner hereinbefore (*a*) provided concerning the valuation list made by or delivered to the overseers, and shall cause the like notice to be given of such deposit as is required in the case of a valuation list so made or delivered as aforesaid (*b*), and shall appoint a day, not less than seven days nor more than fourteen days from the re-deposit (*c*) of such valuation list, for the hearing of any objections to the valuation list as so altered; and when the committee have heard and determined any such objections, or have made such further alterations, insertions, and corrections in such valuation list (*d*), they shall approve the same in manner hereinbefore provided (*e*).

(*a*) See sect. 17, *ante*, p. 23. This deposit is requisite that the parties interested may be informed of the altera-

tion. If there were no such notice the assessments of many persons might be most materially altered to their prejudice, without other redress than an appeal to the sessions. It is to be observed that it is only where there is an alteration in the valuation of any hereditament, or the insertion of some rateable hereditament, that this re-deposit is to take place. Alterations or corrections of the other particulars will not be attended with this result. Note to Sect. 21.

The committee are to cause the list to be deposited and notice to be given. It is not stated how they are to do this, but the almost universal practice has been for them to return the list, with copies of the notice, to the overseers of the parish whence it came, and those overseers have re-deposited the list and affixed the notices. Accordingly, in the case of *The Chorlton Union Assessment Committee* v. *The Chorlton Overseers*, 12 L. T. (N.S.) 581; S. C. *Reg.* v. *Chorlton-on-Medlock*, 35 L. J. M. C. 56; it was held that the overseers were bound to do so.

(*b*) The committee must allow for the transmission of the list from them to the overseers in fixing this time.

(*c*) See sect. 17, *ante*. Some difficulty has been felt on this passage, because the limits of the time specified here do not quite agree with those in sect. 17. But the clause does not, it is conceived, incorporate the provisions as to the periods of notice, but only such as relate to the publication of the notice. If, however, any list should not be returned on the appointed day, the committee may adjourn their meeting so far as it applies to such list.

(*d*) It is to be observed that the committee are not here restricted to the previous alterations, and the objections made to them. They can make further alterations and corrections. Hence they may at this stage hear new objections, or themselves make alterations of hereditaments not previously touched. But before they do so they should, as noticed above on the previous section, give to the occupiers of such hereditaments notice of their intention, and an opportunity of being heard against their proposals.

(*e*) That is, under the hands of three members, with the date; see the previous section. After this approval any ratepayer who is aggrieved by the rate made in accordance with the valuation list, may appeal to the

Note to Sect. 21.

committee to hear his objection, and they are required to do so, and, if necessary, to alter the list, and require the overseers to alter the rate. See 27 & 28 Vict. c. 39, s. 1.

Where a valuation list has been altered, it must be again deposited for inspection pursuant to 25 & 26 Vict. c. 103, s. 21, otherwise it is invalid, and so will also be any contribution order founded on such list: *Reg.* v. *Chorlton*, 37 J. P. 149; 42 L. J. M. C. 34. But alterations in a valuation list made upon appeal to the assessment committee under 27 & 28 Vict. c. 39, s. 1, after the list has been approved by them, do not require to be re-deposited and published in the same manner as alterations under the 25 & 26 Vict. c. 103, s. 21: *Reg.* v. *Edmonds*, 43 L. J. M. C. 156; 31 L. T. (N.S.) 237; 38 J. P. 727; L. R. 9 Q. B. 598.

Here must be noticed 31 & 32 Vict. c. 122, s. 30, which provides as follows:—"When the assessment committee in any union shall have finally approved of any valuation list, whether original, substitutional, or supplemental, they shall cause the total of the entries in the columns for the gross estimated value and the rateable value to be ascertained and entered at the foot of the same, and shall retain such list for the use of the guardians, to be dealt with in the manner provided by the thirty-first section of the Union Assessment Committee Act, 1862, and shall deliver a fair copy of the same to the overseers, signed by the three members of the committee who approved of the same; and such copy shall be countersigned by the clerk of the committee, and shall be preserved by the overseers, and dealt with by them in all respects as the lists made out by them would have been dealt with according to the law now in force, and it shall not be necessary for the said committee to cause any other copy to be made."

If on appeal a rate is amended the valuation list to be altered.

22. [*] In case any ratepayer (*a*) shall under the existing law appeal to the special sessions (*b*) or quarter sessions (*c*) against any rate made for the relief of the poor in any parish, and the result of such appeal shall be to amend the rate appealed against, the Assessment Committee

shall alter the valuation list (*d*) of the said parish in conformity with the decision so made. Sect. 22.

(*a*) It is clear that this word signifies a person rated, and is not confined to a person who, being rated, has paid the rate.

(*b*) Under 6 & 7 Will. 4, c. 96, s. 6. The present Act does not in any way diminish the powers heretofore possessed by persons aggrieved by their assessment to the poor rate of appealing to the sessions, nor alter the process, nor diminish the power of the justices, nor affect the liabilities to costs or otherwise thereat, though it gives somewhat more authority to the decision of the justices. But the Act 27 & 28 Vict. c. 39, s. 2, now requires a notice to be given to the Assessment Committee previous to the appeal, and enables that committee to support the rate as co-respondents.

(*c*) Under 43 Eliz. c. 2, s. 7; 17 Geo. 2, c. 38; and 41 Geo. 3, c. 23 (U.K.).

(*d*) This means the valuation list which has been already approved of by them, although, if the appeal take place before the valuation list shall have been finally approved of by them, they will naturally be expected to correct the same, even though no notice of objection shall have been made to them. The justices at the sessions seeing the important result which will attend their decision, will doubtless exercise more deliberation in coming to that decision than has been sometimes the case when the question only concerned the particular rate. It seems to be expected that the sessions will not henceforth quash the rate upon any question of value, as the clause only provides for the case of an amendment of the rate. In some cases heard since this Act the sessions have quashed the rate made in conformity with the valuation list. But this course has been, according to the provision of this Act, unavailing, because the overseers can only refer to the approved list for the basis of their rate, and cannot depart from it, although the justices may have quashed the previous rate. When the justices shall be of opinion that there should be an entire revision of the valuation of the parish, they should recommend the committee to have a substitutional list made.

Note to Sect. 22.

A difficulty has been suggested as to how the committee can learn the alterations made by the justices at the sessions. No duty is cast upon any one to give them the requisite information. When, indeed, they appear as co-respondents in the appeal, they will have full knowledge of the decision of the sessions.

Custody, &c. of valuation list after approval.

23. [*] Every valuation list (*a*), when approved by the committee, shall be delivered to the overseers of the parish to which the same relates, and shall be preserved at the like place and in the like custody, and be subject to the like resort thereto (*b*), and be delivered over from time to time in like manner, as the books are wherein rates and assessments for the relief of the poor for the same parish are entered (*c*), and shall be produced by the overseers before the justices, upon application for the allowance of rates (*d*), and at the special or general or quarter sessions when any appeal is to be heard, and also at such times and places as the committee may from time to time direct.

(*a*) It will be seen that this is altered by the 31 & 32 Vict. c. 122, section 30, *ante*, p. 34. The committee are now required to give a fair copy, signed and countersigned, to the overseers.

(*b*) See n. (*e*), sect. 17, *ante*, p. 24. The overseers have in a few cases allowed these lists to be removed from their custody, and have entrusted them to ratepayers or others having some interest in the matter. It is obvious that such a proceeding is very improper, and the Poor Law Board have admonished them as to the impropriety of their conduct in so doing.

(*c*) The only statutory provisions which provide for the custody of the rate books of a parish are the 17 Geo. 2, c. 38, s. 13, which requires them to be carefully preserved by the churchwardens and overseers of the poor, or one of them, in some public or other place, in every parish, whereto all persons assessed, or liable to be assessed, may freely resort; the 58 Geo. 3, c. 69, s. 6, which enables the vestry to appoint the place of deposit

Note to Sect. 23.

of all parochial documents; and the 13 & 14 Vict. c. 57, s. 7, which requires the vestry clerk (where there is any such officer appointed under that Act), to take charge of all rate books and accounts which are closed. The Act 24 & 25 Vict. c. 125, also enables offices for the overseers and places for the deposit of the documents of the parish to be provided in parishes of large extent. Where such places exist the valuation list will be properly deposited there. The statute 17 Geo. 2, c. 38, s. 13, provides for the delivery of the rate books over from time to time to the new and succeeding overseers as soon as they enter upon their office.

(*d*) This is a direction with which the overseers are bound to comply, but the production is not made a condition precedent to the allowance, so as to render the rate void where it is omitted. See sect. 28, *post*.

Provision has since been made for lost or injured lists by the 31 & 32 Vict. c. 122, s. 31, in the following terms: "Where any valuation list heretofore approved, or the copy hereafter to be made, shall be lost, injured, or destroyed, the overseers of the parish to which it relates may apply to the clerk of the guardians for a copy of the same; and the clerk, upon payment of a reasonable compensation, not exceeding three shillings for one hundred separate rateable hereditaments, shall give such copy, and certify the same to be a true copy of the list deposited with the said guardians, and such certified copy shall be thenceforth available as the original."

What shall be deemed valuation lists in force.

24. [*] Every valuation list approved by the committee, and delivered to the overseers of the parish to which the same relates, shall, with and subject to the alterations and additions for the time being made therein or thereto by any supplemental valuation lists so approved and delivered (*a*), be the valuation list in force in such parish (*b*), except in the case of any parish, as is hereinafter referred to (*c*), in which the poor rate, or assessment for the poor rate, is made under the authority of a local Act, until a new valuation list in substitution

Sect. 24. for the same be approved and delivered in like manner.

(*a*) Or made in it, after the appeal by a ratepayer under 27 & 28 Vict. c. 39, s. 1.

(*b*) As to the effect of these words see sect. 28, *post*. Besides the provisions therein contained, it will probably be held that when any question or subject matter depends upon the rateable value of property in any parish, a reference made to this valuation list approved of by the committee will be *primâ facie* sufficient; though it is, perhaps, too strong an expression to say that the entry in the list will be conclusive upon the same, except in the metropolis, as to which see 32 & 33 Vict. c. 67, s. 45.

(*c*) See sect. 29. In these parishes the valuation list approved of by the committee will in itself have no legal operation; but it may be fairly expected to have so much effect as to be generally acquiesced in by the local authorities and the ratepayers, if the committee exercise that care and judgment in the revision which is reasonably expected.

Overseers to prepare supplemental valuation lists in case of additions to or alterations in the rateable property of the parish.

25. [*] When and so often as any property (*a*) not included in the valuation list in force in any parish becomes rateable (*b*), or where by reason of any alteration in the occupation of any property included in such list, such property becomes liable to be rated in parts not mentioned in such list as rateable hereditaments and separately valued therein, and when and so often as it shall appear to the overseers that any rateable property included in such list has been increased or reduced in value since the valuation thereof, whether by building, destruction of building, or other alteration in the condition thereof or otherwise, the overseers of the parish in each of the cases aforesaid shall, as soon as conveniently may be, make a supplemental valuation list showing the annual rateable value according to the judgment of the overseers of the pro-

perty so become rateable, or of the parts so become liable to be rated separately, or of the property so increased or reduced in value, as the case may be (*c*). Sect. 25.

(*a*) Three classes are here mentioned. First, new rateable property. Secondly, rateable property which becomes divided. Thirdly, rateable property which becomes altered in value. In either of these three cases a supplemental list shall be made by the overseers. The language of the Act is imperative.

As to the property which becomes *rateable*, it is necessary to refer to the 31 & 32 Vict. c. 122, s. 38, which is as follows: "When any person shall occupy any new house or other building in any parish where the poor rate is not made under the provisions of a local Act, which house or building was incomplete, or not fit for occupation, or was not entered as such in the valuation list in force in the parish at the time when the current rate for the time being was made, the overseers may enter such house or building with the name of the occupier thereof and the date of the entry in the rate book, and require the occupier to pay such amount as according to their judgment shall be the proper sum, having due regard to the rateable value of such house or building, and the time which shall have elapsed from the making of the current rate to the date of such entry, and the person so charged shall be considered as actually rated from such date, and shall be liable to pay the sum assessed in like manner and subject to the like penalty of distress, and with the like power of appeal, as if he had been assessed for the same when the rate was made: provided that when the said overseers shall so enter the said house or building in the rate book they shall forward to the assessment committee of the union comprising such parish, if any such there be, a supplemental list with reference to such house or building, and the same shall be dealt with in all respects, and with the like incidents and consequences as a supplemental list made by the overseers under sect. 25 of "The Union Assessment Committee Act, 1862."

(*b*) As to new houses not yet occupied see *Malden* v. *Kingston*, *ante*, p. 19.

(*c*) And when the overseers have made such supple-

Note to Sect. 25.

mental list they must submit it to the Assessment Committee, who will proceed therewith in like manner as with the original valuation. See sect. 27, *post*. The supplemental list here referred to will be confined to the particular hereditaments, and must not include the whole rateable property of the parish. The overseers need not deal with every case separately, but may include in one supplemental list all the new rateable and altered hereditaments, and submit it to the committee in time for their next rate.

Committee may from time to time direct new valuation, and new or supplemental valuation lists.

26. [*] The committee by their order (*a*) may from time to time (*b*), where they see fit, upon the application of any person aggrieved by the valuation list in force in any parish (*c*), or where (*d*) they themselves think the same expedient, direct a new valuation of all or any of the rateable hereditaments in such parish, and a new valuation list in substitution for such valuation list as aforesaid, or a supplemental list in substitution for any part thereof or in addition thereto, to be made by the overseers (*e*), or the committee may, with such consent as aforesaid (*f*), appoint a person for such purposes; and the committee may, in directing such new valuation, and the making of such new or supplemental valuation list, give and make all such or the like directions and provisions in relation thereto as they are authorized under this Act to give and make in relation to the valuations and valuation lists first directed and authorized to be made under the Act (*g*).

(*a*) The previous section provides for a supplemental list, which the overseers are to make of their own authority, in consequence of the changes in their parish, which may be known to themselves alone. This section provides for the action of the committee either spontaneously or upon the application of some person aggrieved by the existing valuation. The committee have no authority, except after an appeal, to alter or amend the

Note to Sect. 26.

approved list themselves, neither can they require the overseers to alter the valuation according to any rate or scale, or in any particular manner, but they may point out to the overseers alterations which they find to be necessary, and the latter may adopt them in their supplemental list. But it will be best that the committee should not do anything until such supplemental lists shall be submitted to them.

(*b*) The power here given will supersede the provision for obtaining a valuation in a parish contained in the 6 & 7 Will. 4, c. 96, s. 3, through the order of the Poor Law Board, though the provision itself is not abolished, and was of use where it was desired that the cost of the valuation should be provided for by a loan, and not paid out of the current rates. It was also available where the board of guardians refuse to sanction the employment of a valuer by the committee, but the parish officers require a new valuation. But where the list has been finally approved the board have generally declined to issue their order, because the new valuation, if made under their order, could not supersede the valuation list so approved, unless the committee should think proper to adopt it, and if they have any such intention they have ample power under this Act to procure a new valuation. It has been pointed out, however, that the surveyor appointed under 6 & 7 Will. 4, c. 96, s. 3, has more power of entry for examination than one appointed under this Act.

(*c*) This will not apply to the case of a parish where the rate is levied under a local Act, because there will be no valuation list in force therein. See sect. 24.

(*d*) This will apply universally, and the proposition depends upon the discretion of the committee. Two matters are provided for,—1, a new valuation and a new substitutional valuation list; 2, a supplemental list in substitution for any part of or in addition to the former list. It may be shown that the state of the parish has become such as to require an entirely new valuation of the whole, while sometimes a slight alteration only may be necessary, and then a supplemental list will be required. See the letter of the Poor Law Board, dated 1st March, 1864, printed in the Appendix.

(*e*) As to the provision for the cost, see sect. 39, *post*, and 27 & 28 Vict. c. 39, s. 7.

(*f*) See sect 16, *ante*, which applies to the appoint-

Note to Sect. 26.

ment of a valuer at the first proceedings under this Act. Sect. 20 enables the committee to have a valuation made after the list has been sent in, and before the final approval of it. The clause in the text above provides for a valuation to be made at some future time. So far as it provides for the valuation of a part of the rateable hereditaments in a parish it will supersede the provision contained in the 11 & 12 Vict. c. 110, s. 7. This statute is not repealed; but it is of so little use, seeing that the assessment committee are in no respect bound to adopt the valuation made under it, that the guardians cannot be advised to act upon it.

(*g*) It does not appear that the committee are authorized or required to give any particular directions or provisions in relation to the original valuation list, except as to the time when it is to be presented. They can indeed, under sect. 16, order the existing valuation to be revised, but that is what the text itself provides for. The next clause renders all the provisions of the Act which apply to that valuation list applicable to the new or supplemental valuation list. Hence it is to be presumed that the charge of the cost of the substitutional or supplemental valuation will be regulated by sect. 39, *post.*

This Act as to valuation lists first directed to be made to apply to new and supplemental valuation list.

27. [*] All the provisions of this Act in relation to signature (*a*), deposit (*b*), objections (*c*), approval (*d*), and otherwise (*e*) concerning the valuation list first directed and authorized to be made under this Act of the rateable hereditaments in any parish shall be applicable to every new or supplemental valuation list to be made under this Act.

(*a*) Sects. 14 and 16.

(*b*) Sect. 17. There must, therefore, be the same times of deposits as in the case of the first lists.

(*c*) Sects. 18 and 19.

(*d*) Sects. 20 and 21.

(*e*) See sects. 23, 24, 28, 32, and 39.

After a valuation list is approved no rate to

28. In every parish where a valuation list under this Act has been approved and delivered to the overseers (*a*), no rate for the relief of the

poor, or other rate, which by law is required to be based upon the poor rate (*b*), shall be of any force, unless the hereditaments included in such rate, except as hereinafter provided (*c*), be rated according to the annual rateable value thereof appearing in the valuation list in force in such parish (*d*); and instead of the declaration required by the second section of the said statute of the sixth and seventh years of *William* the Fourth, chapter ninety-six, the overseers shall, before the rate shall be allowed by the justices, sign a declaration according to the form set forth in the schedule hereunto annexed [†] (*e*). Provided always, that where by reason of any alteration in the occupation of any property included in such list such property has become liable to be rated in parts not mentioned in such list as rateable hereditaments, and separately rated therein, such parts may, where a supplemental valuation list showing the annual rateable value of such parts has not been approved and delivered as hereinbefore required (*f*), and whether such list has or has not been made (*g*), be rated according to such amounts as shall be fair apportioned parts (*h*) of the annual rateable value appearing in such valuation list in force as aforesaid of the hereditaments out of which such parts have been constituted.

Sect. 28. be allowed unless made according to such list.

(*a*) This is one of the most important clauses in the Act. It gives conclusive authority to the valuation list settled by the committee, because it renders null every rate which departs from the valuation settled and approved of by the Assessment Committee of the union. A rate which departs from the valuation list may indeed

[†] This clause from the commencement to the words *hereunto annexed*, is repealed in the metropolis by the 32 & 33 Vict. c. 67, s. 77, and sch. 5.

Note to Sect. 28.

be paid by the ratepayer, but, if he refuses to pay, there will be no means of enforcing the payment, because if summoned before the justices, he may prove that the rate does not accord with the value set forth in the approved valuation list; and if the overseer cannot defend his rate by the proviso to this section, he must fail in his proceedings. Probably a casual, and, as regards the particular ratepayer, unimportant deviation may not have this effect. See further, sect. 43, *post*.

(*b*) *Quære*, What rates are here referred to? The highway Acts do not expressly "require the lighting rate to be based upon the poor rate;" but merely require it to be assessed upon the same property. See 5 & 6 Will. 4, c. 50, s. 27, *in Pratt's Law of Highways*.

As to the county rate, see the provision in the 27 & 28 Vict. c. 39, s. 9, *post*. With reference to that rate a question arose as to how far this clause affected the action of the justices at the quarter sessions.

The doubt has been settled by the 29 & 30 Vict. c. 78 (dated August 6th, 1866), which, reciting that "by the 15 & 16 Vict. c. 81, the justices of the peace of every county of England and Wales, at the quarter sessions were empowered to appoint a committee to prepare a basis or standard for fair and equal county rates, and that by the 25 & 26 Vict. c. 103, boards of guardians were empowered to appoint assessment committees to make the parochial assessments therein mentioned, and that doubts were entertained whether the power of justices under the first mentioned Act were not impliedly interfered with or controlled by such last-mentioned Act, and that it was expedient to remove such doubts," enacted in section 1, that "Nothing contained in the Union Assessment Committee Act, 1862, shall apply to any assessment which has been or shall be made by any committee appointed by the justices under the said 15 & 16 Vict. c. 81, and any committee which has been or shall be appointed under the last-mentioned Act may prepare a basis for county rates, and do all other things authorized to be done by them under the said Act in the same manner in all respects as if the Union Assessment Committee Act had not passed."

As to local board district rates, see 38 & 39 Vict. c. 55 s. 211. The 56th section of that Act gave to the district board an option of adopting the poor rate valuation, or having a valuation made by their own valuer, and this

Note to Sect. 28.

option is not taken away by the section in the text. *North Eastern Railway Company*, app., v. *Local Board of Scarborough*, resp., Law Rep. 4 Q. B. 133; 38 L. J. M. C. 65.

As to the lighting and watching rate, see 3 & 4 Will. 4, c. 90, s. 9.

In *Edwards* v. *Hatton*, 12 Jur. (N.S.) 144; Law R. 1, Ecc. 21; and in *Barnes* v. *Grant*, Law R. 1, Ecc. 37; 13 Jur. (N.S.) 168, Dr. Lushington held that the clause in the text did not apply to a church rate, though he stated that a presumption must be made in favour of the accuracy of the valuation list, in consequence of the statutory safeguards by which it is surrounded. Since the abolition of the compulsory church rate by the 31 & 32 Vict. c. 109, this decision has become generally unimportant.

(*c*) See the proviso to this section and sect. 29.

(*d*) This clause only applies to the rateable value, therefore the change in the occupier's name or that of the owner, or other particulars, will be of no importance so long as the hereditament is properly identified, and the gross estimated rental and annual rateable values are retained.

(*e*) By the 6 & 7 Will. 4, c. 96, s. 2, it is enacted that the overseers shall, before the rate is allowed, sign the declaration at the foot of the form set out in the schedule thereto, or otherwise the rate shall be of no force or validity. The declaration referred to stated that the particulars in the column were true and correct, as far as they (the overseers) had been able to ascertain them, to which end they had used their best endeavours. This was a very vague declaration. By the new provision they are to declare that the rate agrees with the approved valuation list. This is a positive fact, as to which there can be no doubt or reservation. See the provision in the Act 27 & 28 Vict. c. 39, s. 11, *post*, which imposes a penalty for a false declaration.

(*f*) See sect. 26. There is no reference here to property newly rendered capable of assessment. The overseers cannot insert such property in their rate, but they can apply to the committee to order a supplemental list in respect of it. Again, it will be seen, that if several hereditaments, entered separately in the valuation list, are consolidated as regards the occupation, this clause gives no power to the overseer to deal with the case, so as to rate the separate hereditaments as one. Their proper resource will be an application for a supplemental list.

Note to Sect. 28.

(*g*) The meaning of these words appears to be this. The hereditament may have become divided since the valuation list was approved. In this case a supplemental list may or may not have been made, or if made out may not have been approved by the committee and delivered to the overseers. As the rate, however, must be made without delay, the overseers are to assess the several parts according to their due proportions with reference to the value of the whole in the approved list. This will continue until there shall be a new or supplemental list duly approved.

(*h*) This apportionment must be made by the overseers in the first place, but the ratepayer may appeal to the committee and then to the sessions if he think fit, and the committee, or, in their default, the sessions, can correct the apportionment.

Provision for places under local Acts.

29. [*] The provisions of section twenty-eight shall not apply to any poor rate made by any vestry, trustees, guardians, commissioners, overseers, or other persons authorized by any local Act to make the rate for the relief of the poor in any parish, or the assessment on which such rate is made (*a*).

(*a*) This clause preserves to the parishes where the poor rate is made under any local Act the right to have that rate made free from the operation of this Act, but it does not exempt the overseers of any such parish from the necessity of submitting a valuation list to the Assessment Committee for approval, which list will be settled for the purpose of sect. 30. This appears from sect. 7, *ante*. See further the exemption of these parishes in sect. 24 and sect. 43. In regard to appeals against any poor rate in any such parish, see note on sect. 1 of the 27 & 28 Vict. c. 39, *post*.

In computing amount of contributions to common fund the annual rateable value to be taken from

30. When the Assessment Committee for any union (*a*) shall have approved valuation lists for all (*b*) the parishes comprised within such union, the guardians of such union, in computing the amount of contribution to the common fund for the several parishes, shall thenceforward take

the annual rateable value of the property in such parishes respectively from the valuation lists for the time being lastly approved of for such parishes respectively (*c*), any statute to the contrary notwithstanding: Provided that in case any parish comprised in any union shall receive any sum of money as a contribution in aid of the poor rate of such parish, for or in respect of government property within such parish [and (*d*)] used for public purposes, the annual value of such property, according to the estimate (*e*) (if any) of such value on which the amount of the sum of money so received is computed, or, if there be no such estimate, then the annual value of such property, estimated in the mode provided by the Act sixth and seventh William the Fourth, chapter ninety-six, for making an estimate of the annual rateable value of property liable to be rated to rates for the relief of the poor, shall be included by the overseer or overseers in the valuation list of such parish, and shall be added to the annual rateable value of the property in such parish in computing the amount of contribution to the common fund for the several parishes in such union. Sect. 30. approved valuation lists.

(*a*) Thus far the unions provided for are those formed under the 4 & 5 Will. 4, c. 76. But sect. 45, *post*, enables other unions, when the course proposed thereby shall be followed, to have all the benefits of this Act, and consequently, among others, those of this section.

(*b*) This clause will require the valuation lists to be approved for all the parishes in the union before it will take effect. It must be noticed also that the contributions are to be made on the rateable value, and not on the gross estimated rental.

(*c*) If a parish were added to a union after all the valuation lists had been approved of, there was an inter-

Note to Sect. 30.

ruption of the basis for the contributions, as all the lists would not in such case have been approved of. This result led to embarrassments. The 30 & 31 Vict. c. 106, s. 15, however, provides for this contingency in the following manner, "When any parish comprised in any union shall have been or shall be subdivided, or when any parish shall have been or shall be added to any union after all the valuation lists have been finally approved, the contributions of the several parishes to the common fund thereof shall continue to be made according to the provisions of the Union Assessment Committee Act, 1862, and the Poor Law Board shall determine by their order the proportions according to which the several parts of the parish so divided or the parish so added shall contribute to the common fund until valuation lists for such parts or such parish respectively shall have been finally approved of by the assessment committee of the union, and shall also in respect of such divided parish determine the proportions of the liabilities of such parish to the common fund at the time of the division, to be charged upon the several parts according to the annual rateable value of the property comprised therein respectively." It is the practice of the board generally to refer to the county rate, and ascertain the value upon which the parish was rated to that rate. They refer to the Act 24 & 25 Vict. c. 55, which, requiring the contributions to the common fund in unions to be based upon the annual rateable value of the property contained in the parishes comprised therein, referred the boards of guardians of those unions to the county rate, borough, or ward rate, or other rate in the nature of a county rate. Two unions, formed under 4 & 5 Will. 4, c. 76, have adopted the agreement for settlement provided by sect. 33, which established a particular fixed mode for computing the contributions to the common fund, and though it was doubted whether they were affected by the 24 & 25 Vict. c. 55, the Court of Queen's Bench, in the case of *Reg.* v. *Calthorp*, 4 B. & S. 216, decided that they were. But it is clear that every such union has been brought under the operation of this clause, as in effect it repeals the previous enactments.

(*d*) This word is superfluous.

(*e*) The lords of the treasury make, in some parishes, voluntary payments to the overseers in respect of property occupied by government for public purposes, and there-

fore exempt from assessment. There is an annual vote in parliament for this object. It is understood, however, that the payment is not altogether an arbitrary one, but is based upon a valuation or estimate made for the government, and bears a certain settled proportion to the amount of the rateable property in the parish. Under the late Defence Act (23 & 24 Vict. c. 112), property held by the Secretary-at-War is rateable at the value of the land before it vested in him for the purposes of the Act. Note to Sect. 30.

By the Telegraphs Act 31 & 32 Vict. c. 110, s. 22, "all land property and undertakings purchased or acquired by the postmaster-general under this Act, shall be assessed and rateable in respect of the local municipal and parochial rates assessments and charges at sums not exceeding the rateable value at which such land, property, and undertakings were properly assessed or assessable at the time of such purchase or acquisition"; but it has been held that by the Telegraphs Acts, 1868 (31 & 32 Vict. c. 110, s. 22), and 1869 (32 & 33 Vict. c. 73), no duty is cast upon the postmaster-general to pay the rates imposed by those Acts; and there is no remedy by *mandamus* against him to enforce the payment of rates made upon the basis of the approved valuation list: *Reg.* v. *Postmaster-General*, 28 L. T. (N.S.) 337; 37 J. P. 196.

With reference to this subject the following treasury minute was passed on 25th June, 1874:—"The Chancellor of the Exchequer brings before the board the engagement given by him to parliament on the occasion of his proposing his budget for the year 1874-75, that property in the occupation of the government, including property under the control of Her Majesty's commissioners of woods, &c., and not in the occupation of any other occupier should throughout the United Kingdom, bear its due share of all local burdens; and he submits that, for this purpose, the valuations of such property as are now acted upon be ordered to be corrected (as far as they require it) up to the present time; that valuations be made in like manner of all such property in respect of which contributions to the local rates are not now paid; and that, as soon as possible, a return be completed and laid before parliament setting forth; 1. The name of each parish in which the government occupies property; 2. The rateable value of such parish exclu-

Note to Sect. 30.

sive of the said property; 3. The extent and character of such property; 4. The valuation put upon such property for local rating; 5. Special Acts of parliament, if any, applicable to the case. My Lords approve." See Parliamentary Papers, Vol. 234, Session 1874.

Accordingly a return was prepared and ordered by the House of Commons on the 8th February, 1877, to be printed. See Sessional Papers 1877, No. 7. It is understood that a complete return for the whole Kingdom will be made in 1882.

Copy of valuation lists to be deposited in board room.

31. [*] The committee shall cause a copy (*a*) of the valuation list for the time in force for every parish in the union to be made and deposited at the board room or other convenient place to be appointed by the board of guardians in the custody of the clerk, which copy shall be open at seasonable times (*b*) to the inspection of any of the guardians of the union, and of any overseer of any parish within the union, without charge, and of any ratepayer (*c*) within the union on payment of one shilling, such fee to be carried to the account of the common fund.

(*a*) This section has been altered by the 31 & 32 Vict. c. 122, s. 30, printed on p. 34, *ante*. No copy is now to be made for the guardians, but the original list sent in and finally approved of by the committee, is to be retained for the guardians, and dealt with in the manner herein provided.

(*b*) See *ante*, p. 13, as to the meaning of these words.

(*c*) Who is a ratepayer? The 4 & 5 Will. 4, c. 76, s. 40, provides that no person shall be deemed a *ratepayer*, or be entitled to do any act, matter, or thing as such under the provisions of that Act, unless he shall have been rated to the relief of the poor for a year, and have paid the rates for a year. Sect. 1, *ante*, enacts that the words used in this Act shall be construed as the words in 4 & 5 Will. 4, c. 76. Apparently, therefore, the term "ratepayer" in the text must be construed

accordingly, unless indeed it be thought that the word is to be interpreted by the language of ss. 17 and 22, *ante*. Note to Sect. 31.

No penalty is imposed upon the clerk for refusing the inspection in this case, as in sect. 11. The fee must be paid or tendered before the inspection can be demanded. It is due in reference to each list which is the subject of the inspection; so that a person who would inspect all the lists in the union would have to pay as many fees as there are parishes.

Appeal against valuation list.

32. [*] If the overseer or overseers of any parish in any union shall have reason to think that such parish is aggrieved by the valuation list (*a*) of any parish within such union, whether it (*b*) be on the ground that the rateable hereditaments comprised in the valuation list of such parish are valued at sums beyond the annual rateable value thereof, or on the ground that the rateable hereditaments comprised in the valuation list of some other parish in such union are valued at sums less than the annual rateable value thereof; it shall be lawful for such overseer or overseers (*c*), with the consent of a vestry summoned for the purpose of considering the expediency of giving such consent, to appeal to the quarter sessions for the county or borough in which the greatest number of parishes belonging to the union is situate, or, in case the number of parishes in any two or more such jurisdictions is equal, to the quarter sessions for the county or borough having jurisdiction over the parish in which the workhouse of the union is situate, at the sessions to be holden after the expiration of a month (*d*) after the allowance of and deposit of such valuation list as aforesaid (*e*), against such valuation list of the parish which shall appear to be over-valued or under-valued; and if in

Sect. 32. any case any such overseer or overseers appeal against the valuation list of any other parish on the ground that the rateable hereditaments in such list are valued at less than the annual rateable value thereof, such overseer or overseers shall give fourteen clear days' (*f*) notice in writing, previous to the first day of the said quarter sessions at which the appeal is to be made, of the intention to appeal, and the grounds thereof, to the overseers of the poor of such parish (*g*), and to the guardians of the union comprising such parish; and if any overseer or overseers of any parish appeal against the valuation list of such parish on the ground that the rateable hereditaments in such list are valued beyond the annual rateable value thereof, such overseer or overseers shall give fourteen days' notice in writing, previous to the quarter sessions at which the appeal is to be made, of the intention to appeal, and the grounds thereof, to the guardians of the union (*h*) in which such parish is situate; the said court shall be empowered to hear and determine such appeal, and either confirm such valuation list, or correct such irregularities (*i*) or inaccuracies as shall be proved to exist therein, as to them may appear fair and just; but no such valuation list shall upon such appeal be quashed or destroyed in regard to any other parish unless the court deem it necessary to proceed to the making of an entire new valuation list as hereinafter provided (*k*).

(*a*) These clauses have been introduced from the statute 15 & 16 Vict. c. 81, which provides for the assessment of the county rate, and in sect. 22 and following sections supplies the power of appeal against the valuation of parishes to the county rate.

Note to Sect. 32.

It seems that this power of appeal extends to any substitutional or supplemental list, see sect. 27.

(*b*) Note, that only two grounds of appeal are given: first, the excessive valuation of the rateable hereditaments in the parish itself; second, the under valuation of such hereditaments in some other parish in the union. The omission of rateable property in the latter would fall within the second ground, as thereby the parish would be under-valued. In the County Rate Act several other grounds are mentioned.

(*c*) No right of appeal is given to any person besides the overseer, but it would be competent for any ratepayer to raise the question by addressing a complaint to the parish officers, and urging them to call a vestry, and doubtless the overseers would then act under the recommendation of the vestry.

(*d*) This means calendar month. See 13 & 14 Vict. c. 21.

(*e*) There will be some difficulty here. The "allowance" is here stated instead of the "approval," which, according to sect. 20, is to be dated, and consequently will be on some one day. The deposit will be after the delivery provided for in sect. 23, and may be on another day. It will be prudent therefore to date from the day of the deposit when it differs from that of the approval.

(*f*) See 12 & 13 Vict. c. 45, s. 1.

(*g*) Notice is not required to be given to the individual ratepayers, though their interests may be affected by the decision of the quarter sessions.

(*h*) Note, that in this case no notice is required to be given to any other parish, or to any ratepayer. The guardians of the union are presumed to have a sufficient interest to act for all the other parishes.

(*i*) *Quære*, What is meant by an irregularity in the list? Probably the word should have been *inequalities*, as in the County Rate Act. It appears that the quarter sessions may thus alter the valuations of individual properties. But probably this will not be done where the ratepayers, whose rating would be affected, have had no opportunity of appearing and being heard on the appeal. If, however, the justices do so, they cannot deprive the ratepayer of his right to appeal against the rate made upon the altered valuation list; and it is to be presumed that the judgment in this appeal would be no evidence against him in his appeal.

Note to Sect. 32.

(*k*) This passage does not appear to be very intelligible. The words have been taken from the County Rate Act without due advertence to the different objects of the two Acts.

Hearing and determining of appeals.

33. [*] It shall be lawful for the court of quarter sessions, upon any such appeal, instead of hearing (*a*) the said appeal, to adjourn the same, and to order, upon the application of the appellant or respondent (*b*) in such appeal, a survey or (*c*) valuation of any of the parishes in respect of which such appeal shall be made, and to fix the next or some subsequent sessions for receiving such survey or (*c*) valuation, and for hearing and determining such appeal; and such court shall also thereupon appoint (*d*) a proper person to make such survey or valuation, and the person so appointed shall have power, with or without assistants, to enter upon and survey, measure, and value all the hereditaments liable to be assessed to the rates for the relief of the poor within the parish or parishes mentioned in such order; and such survey and valuation shall be reported to the quarter sessions on adjournment fixed as aforesaid for receiving the same, and the court then and there assembled shall hear and determine the said appeal in the manner hereinbefore set forth.

(*a*) This word should have been *deciding* or *determining*. The court must commence the hearing of the appeal, or they will have no opportunity to make any order, unless indeed their order is to be a mere ministerial act, which cannot have been intended. This clause corresponds with 15 & 16 Vict. c. 81, s. 18.

(*b*) *Quære, Who* is to be the respondent? In the one case, notice is to be given to the overseers and to the guardians, so that either or both may be respondents. In the other case, notice is to be given to the guardians

only; and here it would seem that they are to be the respondents. According to the next clause, the guardians may be required to pay the costs of the appellants, so that they are properly to be considered as respondents. Of course the Assessment Committee are not to be the party, as they have no corporate capacity. The guardians will appear in their corporate name, according to the 5 & 6 Will. 4, c. 69, s. 7, and 5 & 6 Vict. c. 57, s. 16. See the provision in the new Act, 27 & 28 Vict. c. 39, s. 2, as to the appearance of the Assessment Committee on the appeal against the poor rate. **Note to Sect. 33.**

(*c*) This word *or* should be read *and*. A survey without a valuation would be useless. At the close of the section it will be seen that *and* is used.

(*d*) As the court are to appoint the surveyor, it seems that in strictness the court must pay his charges, but as there would be some difficulty in their doing so, he will doubtless look to the order of the court, to be made when the appeal is determined. In a case which came lately before the quarter sessions, instead of acting upon this clause the sessions respited the appeal, and directed the parties to procure a new valuation. The result was great embarrassment and confusion. Expenses were incurred which could not legally be charged upon any fund.

Costs of valuation and appeal.

34. [*] The charges and expenses of any such survey and valuation so ordered shall be deemed costs in such appeal, and abide the event thereof; and the court before which any such appeal is heard and determined, may order the costs in and about the appeal to be paid by either the appellant or respondent party (*a*), as they in their discretion may think fit; but where any appeal is made, on the ground that the rateable hereditaments of any parish comprised in the valuation list of such parish are valued beyond the annual rateable value thereof, if the court on such appeal determine in favour of the appellants, such court shall ascertain the costs and charges incurred by such appellants in and

Sect. 34. about such appeal, and shall order the board of guardians of the union in which such parish is situate, to pay the same to the appellants out of the money raised for the common fund for the several parishes in such union.

(*a*) This section corresponds with 15 & 16 Vict. c. 81, s. 19, and appears to overrule the discretion given to the court by 12 & 13 Vict. c. 45, s. 5.

If the guardians be the respondents, and should be ordered to pay the costs, it does not appear that they can recover the amount from the parish which may have been determined to be under-valued. It will be seen that the court has a discretion in regard to the costs in the one case, but none in the other. When it appears that the parish was over-valued by the Assessment Committee, the parish is entitled to the costs of the appeal. But, however, the court may have a discretion in regard to the general costs of the appeal, the charges of the survey and valuation, which are to abide the event, must be paid by the party losing the appeal, as otherwise there is no provision for their payment at all.

Act not to prevent composition for rates

35. [*] Nothing herein contained shall be construed to prevent the owners of tenements from compounding for the rates to be assessed on the same, in such manner as they were by any statute or statutes enabled to do before the passing of this Act (*a*).

(*a*) This is a clause of extreme caution, as the act applies only to the valuation of property, and in no respect interferes with the liability of particular parties to be rated for that property. The general statutes referred to were 59 Geo. 3, c. 12, s. 19, and 13 & 14 Vict. c. 99, but numerous local Acts in different parishes provided for the rating of the owners in the place of the occupiers. These provisions were all superseded in parliamentary boroughs by the Representation of the People Act, 1868. The 13 & 14 Vict. c. 99, and the several local Acts have been repealed by the Poor Rate Assessment and Collection Act, 1869, 32 & 33 Vict. c. 41, which establishes a mode-

for rating and collecting the poor rates from the owners of property of low annual value. Note to Sect. 35.

The former Acts however did not, neither does this last Act, prevent the committee from obtaining valuations of the rateable value in the parishes affected by them. The value of this property is to be returned in the lists as any other rateable property, because the composition takes effect upon the rate and not upon the valuation. See the decision of the Court of Common Pleas in the case of *Sunderland Overseers*, apps., v. *Guardians of Sunderland Union*, resps., 18 C. B. (N. S.) 532, that the committee must set out the full rateable value of every tenement, and make no allowance or deduction in reference to the composition under which the owner must pay the rate.

Saving of exemptions and special rules of rating.

36. [*] Nothing herein contained shall extend or be taken to render liable to be rated (*a*) any property, or any person in respect of any occupation not now by law rateable of any property, or to deprive any property, or the occupier of any property, of the benefit of any exemption, in whole or in part to which such property or occupier is now by law entitled, from any poor rate or other rate which by law is required to be based upon the poor rate, or to render liable to be rated, according to the annual rateable value thereof, any property which under any local act (*b*) or otherwise is entitled to be rated upon a fixed amount, or according to any special or exceptional principle of valuation, whether such property shall or shall not be included in any valuation list in force under this Act, or shall in anywise affect the provisions of "The Cambridge Award Act, 1856," or the Act of the seventeenth and eighteenth Victoria relating to the relief of the poor in the city of Oxford.

(*a*) This clause saves the property herein referred to from being rated, but, as appears from the latter part of

Note to Sect. 36.

the clause, would not prevent such property from being included in the valuation list. Nevertheless, as the object of the Act is to have the valuation of the parishes settled uniformly with reference to the property actually available for the purposes of rating, it would not be equitable to include in the total amount of the rateable property of a parish that which the law excludes from being assessed. It is therefore presumed that property wholly exempted should be omitted from the valuation list, and property partially exempted should be valued at its legal assessable value only. But care must be taken to omit no property which is not legally exempt. The fact that the property which has been rated is at the time unoccupied, or, though occupied, has not been hitherto rated in the parish, will afford no ground for omission. See 24 & 25 Vict. c. 55, s. 9, and *Reg.* v. *Hammersmith*, 33 L. T. 183. As to newly built but unoccupied houses, see note on sect. 25, *ante*. In the appendix to *Lumley's Commentary on the Parochial Assessment Act*, 6 & 7 Will. 4, c. 96, will be found the statutes which exempt certain properties from assessment, either wholly or partially, and as to them see further the note on sect. 44, *post*.

(*b*) Instances of this exemption will be found in local Acts applicable to canals and docks.

Board may allow compensation for returns, &c. and expenses.

37. The committee may allow such compensation for any returns, copies, or extracts, or any valuation, or valuation list, or other act, matter, or thing to be made or done in pursuance of their order (*a*), and such expenses connected therewith, as to the committee in each case seems just (*b*).

(*a*) It must be noticed that this clause only applies to matters made or done in pursuance of the order of the committee. Therefore, any matter made or done in obedience to this Act or other provision of the law in regard to the valuation of property, is not within the section, which, it should be noticed, does not apply to the expenses of the overseers.

(*b*) As regards valuations, the committee cannot expect that surveyors or valuers will undertake to make them, and depend upon the discretion of the committee

as to what compensation they shall receive. Therefore, when they appoint a valuer, they must provide distinctly for the amount to be paid for the valuation. It does not appear that the committee are, themselves, to pay anything; indeed, they will have no funds in their possession out of which they can do so. They are to allow the compensation, and the same will be paid out of the common fund of the union, or out of the poor rate of the parish according to the result. The next section requires the guardians to pay the sums which are chargeable upon the common fund. The clause appears to give to the committee entire discretion to determine the amount of the compensation, though there may be many cases where in fact the committee will not have any power to settle the amount. It would be well if committees would bear in mind the liability incurred by the union in consequence of their orders. Many committees have been very reckless in issuing orders and directions, having neglected to recollect that for every service which they require, and for every act which they direct to be executed for them, if within the scope of their authority, the common fund of the union is responsible, and not the parish in respect of which their orders may be issued. It is well to note that the claim against the guardians of the union begins to run from the time when the committee make the allowance. Such, at least, is the opinion of the Poor Law Board, when applied to with reference to the 22 & 23 Vict. c. 49. Note to Sect. 37.

Where an assessment committee had required an assessor of taxes to supply them with copies of the assessment, it was held by the Q. B. that he was bound to accept the amount of compensation awarded by the assessment committee, and could not sue the individual members of the committee on a *quantum meruit*. *Hill* v. *Hippesley and Others*, in Q. B., Trin. T. 1865.

An assessment committee having given notice to the overseers of a parish to return a valuation list under section 14, of 25 & 26 Vict. c. 103, of their parish in ten days, proceeded before the lapse of three months from their appointment, to appoint a valuer to make a valuation of the parish. Afterwards and after the three months the overseers returned a valuation list, which was deemed unsatisfactory by the committee, and the valuer was directed to complete his valuation, which exceeded by more than one-sixth the amount of the valuation

Note to Sect. 37.

returned by the overseers; and the court held that the expense of such valuation by the valuer appointed by the committee, could not be charged against the parish under section 39, but as compensation under section 37. *Reg.* v. *Richmond*, 34 L. J. M. C. 186, 6 B. & S. 541, referred to *post:* S. C. *Reg.* v. *Stonebeck Down*, 29 J. P. 310.

Remuneration to clerk and certain expenses of committee to be paid out of common fund.

38. The remuneration allowed by the committee to their clerk (*a*), and all expenses incurred by them for the common use and benefit (*b*) of the several parishes within the union for which they are appointed, shall be paid by the guardians of the said union, and be charged upon the common fund thereof.

(*a*) See sect. 10, *ante*.

(*b*) These general words embrace all such expenses as will be incurred by the committee in carrying out the purposes of this Act generally, their books, forms, stationery, expenses of procuring returns and information, and all costs which they incur to secure fairness and equality in the valuations of the parishes. But the guardians will have no means of recovering from the separate parishes any expenses which may be incurred on behalf thereof. It is to be observed, that the statute does not authorize any personal remuneration to the members of the committee for their labours, nor payment for their refreshments, and where charges for these expenses have been made, the auditors have disallowed them, and the Poor Law Board have upheld that decision, and declined to remit.

Expenses of valuation, &c., to be paid out of poor rates.

39. [*] The expenses of making any valuation and valuation list of any parish (*a*), or any of such expenses, whether such valuation and valuation list respectively be made by the overseers, or by any person appointed by the committee, shall be charged upon the poor rates of such parish (*b*), if the valuation made by direction of the committee shall exceed by one-sixth the amount of the valuation deli-

vered to them by the overseers, and upon the common fund of the said union, if the valuation so made as last mentioned shall not exceed by one-sixth the valuation so delivered as aforesaid (*c*). Sect. 39.

(*a*) It must be remembered that, according to sect. 14, the overseers are to make the valuation list, though sect. 16 enabled the committee, when they saw fit, to appoint some person to make the original valuation list instead of the overseers. Again, they may afterwards direct a new valuation to be made by the overseers, or, with the consent of the board of guardians, may appoint a person to revise the existing valuation, or to make a new one. See ss. 20 and 26, *ante*. In these case, the expense is caused by the committee, and therefore the clause in the text provides for the result of the new valuation; but only in the case of a valuation made after the overseers have sent in their valuation list.

The clause is, however, somewhat obscure, as it refers to the valuation and valuation list made by the overseers, or by a person appointed by the committee, and only deals with the case of a valuation made by the direction of the latter. There is, in fact, no provision here for the valuation and valuation list made by the overseers under the direction of the Act and without that of the committee; but in regard to the expense of making them, see the new Act, 27 & 28 Vict. c. 39, s. 7, *post*.

(*b*) If the overseers, under the authority of the committee, employ the surveyor and pay him, they may charge the expenses to the parish, and enter the amount in their Receipt and Payment book. If the committee appoint him, and the guardians pay the expenses, they must charge the expenses against the parish in their Parochial Ledger if they are not to fall upon the common fund. In a case (referred to *ante*, p. 60) where the overseers were ordered by the committee to send in their original valuation list within ten days, and not having done so, the committee directed a valuer to be appointed to make out the valuation, and the overseers having then sent in their valuation list, the Assessment Committee disregarded it, and ordered the valuation to be made by their own surveyor, the Court of Queen's

Note to Sect. 39.

Bench held, that the cost thereof could not be charged to the township. *Reg.* v. *Richmond,* 34 L. J. M. C. 186; 6 B. & S. 541.

Note, there was no authority to borrow money for these expenses, as in the 6 & 7 Will. 4, c. 96, s. 3. but now see 27 & 28 Vict. c. 39, s. 8, *post.*

(*c*) If the new valuation does not exceed the former by one-sixth in respect of the gross estimated rental, but does so in respect of the rateable value, it has been considered that the expense must be charged to the common fund, but this is open to doubt. The important column is, of course, that of the rateable value; nevertheless the other column for the gross estimated rental is one in which the overseers have least excuse for error.

Penalty for non-attendance, &c., in obedience to order of the committee.

40. Every person who wilfully (*a*) refuses to attend in obedience to any lawful order of any such committee, or to give evidence (*b*), or refuses to produce any rate book, assessment, or valuation (*c*) which may be lawfully required to be produced before such committee, shall, for every such offence, be liable to a penalty not exceeding twenty pounds upon a summary conviction for the same before two justices of the peace; and every person who wilfully injures, defaces, conceals, or destroys such rate book (*d*), or who, upon any examination before any such committee, wilfully gives false evidence, shall be deemed guilty of a misdemeanor.

Injuring, &c, rate books a misdemeanor.

(*a*) See the next section. The word *wilfully* is added to remove the effect which has been sometimes given to unqualified word of refusal or neglect. The refusal may be grounded upon some reasonable excuse, such as another engagement, too short a notice, or personal incapacity. The statute does not require any tender of expenses to be made prior to the attendance, and the omission or refusal to make such tender would not be a lawful excuse, but it is considered that under sect. 37, the committee can allow reasonable expenses

to persons who attend as witnesses upon the order of the committee.

Note to Sect. 40.

(*b*) See sect. 13, *ante*.

(*c*) This clause does not go quite far enough, as it omits some of the documents specified in sect. 13.

(*d*) It is to be presumed, that these general words must be qualified with reference to the purpose of this Act. At the same time, the 58 Geo. 3, c. 69, s. 6, enacts, that if any person in whose hands or custody any (vestry) books, rate, assessment, account, voucher, certificate, order, document, writing, or paper (belonging to a parish) shall be, shall wilfully or negligently destroy, obliterate, or injure the same, or suffer the same to be destroyed, obliterated, or injured, he shall be liable to forfeit, on summary conviction, a sum not exceeding 50*l.* nor less than 40*s.* The clause in the text, however, imposes a severer punishment, as it makes the offence a misdemeanor, so that the offender will be subject to fine or imprisonment.

Authentication and service of orders and notices of the committee.

41. [*] Every order and notice made or given by the committee under this Act, may be in writing or print, or partly in writing and partly in print, and shall be sufficiently authenticated if signed by their clerk, and may be served by the same, or a copy thereof, being delivered personally, or sent by the post to the party (*a*) on or to whom such order or notice purports to be made or given, or by being delivered at his usual place of abode (*b*).

(*a*) Where an order is made upon the overseers of the parish for the general purposes of the Act, it is presumed that it will suffice to send one copy of the order to these officers. But if the committee require anything to be done personally by any officer as under sect. 13, it seems to be necessary to direct the order or notice to the individual officer.

(*b*) It seems from a case in the Court of Exchequer that this provision would not prevent service being available if it be such as would be sufficient at common law. Hence, the service of a notice under sect. 140 of

Note to Sect. 41.

the Public Health Act, where the language is much the same as above, upon the clerk of the owner of premises at his place of business, though not his usual place of abode, was held to be sufficient. *Mason, appellant, Bibby, respondent*, 33 L. J. R. M. C. 105; 9 L. T. 692.

Service of notices, &c. on the committee.

42. [*] Any notice or statement required to be served upon the committee, may be served by being left at the office of the clerk to the board of guardians, or sent through the post office, addressed to the committee at such clerk's office, or by being delivered personally to their clerk (*a*), or at his usual place of abode.

(*a*) Note the distinction. The notice may be left at the office of the clerk of the guardians, but if there is to be personal service, there must be a delivery to the clerk of the committee, who may be a different person from the former.

Provision as to form of poor rate.

43. [*] In every parish, until a valuation list has been approved, and delivered to the overseers under this Act, every rate made for the relief of the poor in such parish shall be made in the form and contain the particulars required by the said Act of the sixth and seventh years of King William the Fourth (*a*); and after such valuation list has been so approved and delivered, every such rate, except in any parish where the poor rate or the assessment for the same is made under the provisions of a local Act as aforesaid, (*b*) shall show the annual rateable value of each hereditament comprised therein, according to the valuation list in force in such parish (*c*).

(*a*) It will be noticed that this Act, as now framed, does not provide for any alteration in the form of the rate after the approval of the list, but in the bill originally presented to parliament, it was contemplated that

there would be some alteration. The clause does not rescind or set aside the orders of the Poor Law Board, which have prescribed the form of the rate book, and contain other columns than those in the 6 & 7 Will. 4, c. 96. Note to Sect. 43.

(*b*) See sect. 29, *ante*, and note thereon.

(*c*) This corroborates the enactment in sect. 28, *ante*.

Provisions concerning the assessment, &c., of poor rates to be applicable to rates made according to this Act.

44. All the powers, authorities, provisions, clauses, and regulations now in force relating to the assessment (*a*), collection, and levying of poor rates (save so far as the same are hereby repealed or altered) shall be good, valid, and effectual for the purposes of assessing, levying, collecting, and enforcing the payment of such rate, and for carrying this Act into execution (*b*).

(*a*) See the 43 Eliz. c. 2; 17 Geo. 2, c. 38; 41 Geo. 3, c. 23; 54 Geo. 3, c. 170, s. 11; 59 Geo. 3, c. 12, ss. 20—23; 6 & 7 Will 4, c. 96; 2 & 3 Vict. c. 84; 4 & 5 Vict. c. 48; 7 & 8 Vict. c. 101, ss. 61, 62; 12 & 13 Vict. c. 14; 13 & 14 Vict. c. 99, now repealed; 14 & 15 Vict. c. 39; 25 & 26 Vict. c. 82; 31 & 32 Vict. c. 122, ss. 39, 40; and the 32 & 33 Vict. c. 41. The general order of the Poor Law Board, dated January 14, 1867, should be referred to in reference to the assessment and collection of the poor rate.

The statutes 3 & 4 Will. 4, c. 30, relating to *churches and chapels;* 6 & 7 Vict. c. 36, relating to *literary and scientific societies;* 16 & 17 Vict. c. 97, s. 35, relating to *lunatic asylums;* 17 & 18 Vict. c. 104, s. 430, relating to *lighthouses and beacons;* c. 105, s. 2, relating to *the militia;* 18 & 19 Vict. c. 128, relating to *burial grounds;* 23 & 24 Vict. c. 112, relating to *new ordnance lands;* 26 & 27 Vict. c. 65, s. 26, relating to *the storehouses of the volunteers;* 32 & 33 Vict. c. 40, relating to *ragged schools and Sunday schools;* and 3 & 4 Vict. c. 89, relating to *stock in trade,* continued by successive statutes to the present time, are all general Acts, which exempt property either wholly or partially from assessment to the poor rate.

(*b*) When the provisions of this Act are considered, it

Note to Sect. 44. will be seen that they only seek to effect the correct and accurate valuation of property for the poor rate, and that none of the powers above referred to are required for carrying this Act into execution.

Powers for unions under Gilbert's or local Acts to be included in this Act.

45. [*] "And whereas there are divers unions or incorporations for the relief of the poor formed under local Acts, and under the Act of the twenty-second year of King George the Third, chapter eighty-three, which may desire to adopt the provisions of this Act": Be it enacted, that any such union or incorporation, on resolution to that effect of a majority (*a*), at two successive meetings (*b*) of the body, having under the constitution of such union or incorporation the management of the relief of the poor within the same, may, by writing under the hand of the presiding chairman of the second of such meetings, apply to the Poor Law Board to be included in this Act; and such union or incorporation, upon the consent of the Poor Law Board being given to such application under its seal (*c*), shall be so included (*d*); and such consent so signified shall be evidence that such application was in all respects duly made according to the provisions above mentioned; and such regulations shall thereafter be made from time to time by the said board, with the consent of such body, as may be necessary to render the provisions of this Act conformable with the provisions of the Act under which the said union or incorporation shall have been formed (*e*).

(*a*) It is to be understood that a majority of the members of the body present at the two meetings must give their consent, and that the majority of the whole body need not give it.

(*b*) There should be two ordinary meetings, but it would be well that notice should be given to all the members of the board of management of the intended motion. **Note to Sect. 45.**

(*c*) It is not compulsory upon the Local Government Board to give their consent.

(*d*) The result of this application and the consent of the Local Government Board thereto, will be this, that not only will the poor-rate valuations of the parishes comprised in the union or incorporation be made correct and uniform, but the basis of contribution towards the common fund may be changed. Gilbert's Act (22 Geo. 3, c. 83), was repealed by the Statute Law Revision Act, 1871. The 43 & 44 Vict. c. 7, *post*, p. 87, now enables the Act to be applied to parishes not included in unions.

(*e*) It seems that the Local Government Board will have complete power to settle these arrangements with the consent of the body above referred to. Two incorporated hundreds and two Gilbert unions adopted this Act; but since the passing of the 31 and 32 Vict. c. 122, s. 4, all the remaining Gilbert Unions have been dissolved, and the parishes comprised therein have either been formed into new unions, or have been amalgamated with unions formed under the Poor Law Amendment Act of 1834.

46. This Act shall extend only to England (*a*). Extent of Act.

(*a*) This word includes Wales. See 20 Geo. 2, c. 42, s. 3.

Sched.

SCHEDULE.

VALUATION LIST (*a*) for [*the Parish or Place for which the List is made*] in the County of

Name of Occupier.	Name of Owner.	Description of Property.	Name or Situation of Property.	Estimated Extent.	Gross estimated Rental (*b*).	Rateable Value (*c*).

Signed this day of

A.B. } Overseers (*d*) of the
C.D. } Poor of the Parish aforesaid.

(*a*) This list comprises all the columns in the usual poor rate, except those which contain the rate and the number. The property will, however, be sufficiently identified for all necessary purposes.

(*b*) In regard to this column, see sect. 15, *ante*, p. 19.

(*c*) The amount to be inserted in the column headed "rateable value" of the valuation list is the true rateable value independent of whether or not the property is subject to the provisions of the Small Tenements Rating Act (now as to that Act see the Assessed Rates Act, 32 & 33 Vict. c. 41). *Sunderland-near-the-Sea* v. *Sunderland Union*, 34 L. J. M. C. 121; 18 C. B. (N.S.) 531; 13 L. T. (N.S.) 239.

(*d*) As churchwardens are included by the 4 & 5 Will. 4, c. 76, s. 109, under the name of "overseers," they must sign this list as well as the latter.

DECLARATION TO BE ADDED TO THE RATE. Sched.

WE, the undersigned, do hereby declare that one of us, or some person on our behalf, has examined and compared the several particulars in the respective columns of the above rate with the valuation list made under the authority of the Union Assessment Committee Act of 1862, in force in this parish (*a*) (or township), and the several hereditaments are, to the best of our belief, rated according to the value appearing in such valuation list.

_____ } Churchwardens.
_____ }

_____ } Overseers.
_____ }

(*a*) This declaration will not be available in parishes where the poor rate is made under a local Act. See sect. 29, *ante*, p. 46.

The 27 & 28 Vict. c. 39, s. 11, *post*, imposes penalties upon overseers who wilfully omit to make this declaration, or make it falsely knowing it to be untrue.

THE UNION ASSESSMENT COMMITTEE AMENDMENT ACT, 1864.

27 & 28 Vict. Cap. 39.

An Act to amend the Union Assessment Committee Act (1862).

[14th July, 1864.]

Sect. 1. "Whereas it is expedient to amend the Union "Assessment Committee Act, 1862, in regard "to Appeals against Poor Rates, and to make "further Provisions for securing correct and "uniform Valuations of the Property liable "to be assessed to the relief of the Poor:" Be it therefore enacted:

Notice of appeal against poor rate to be given to the Assessment Committee of union.

1. [*] Before any appeal shall be heard (*a*) by any special or quarter sessions against a poor rate made for any parish (*b*) contained in any union to which the Union Assessment Committee Act, 1862, applies, the appellant shall give twenty-one days notice (*c*) in writing previous to the special or quarter sessions to which such appeal is to be made of the intention to appeal, and the grounds thereof, to the Assessment Committee of such union: Provided that after the first day of August next no person (*d*) shall be empowered to appeal to any sessions against a poor rate made in conformity with the valuation list approved of by such committee (*e*), unless he shall have given

[*] This section was repealed, as regards the metropolis, by 32 & 33 Vict. c. 67, s. 77, sch. 5, *post*.

to such committee notice (*f*) of objection against the said list, and shall have failed to obtain such relief in the matter as he deems just (*g*); and which objection, after notice given at any time (*h*) in the manner prescribed by the said Act with respect to objections, the committee shall hear (*i*), with full power to call for and amend such list, although the same has been approved of, and no subsequent list has been transmitted to them, and if they amend the same shall give notice of such amendment to the overseers, who shall thereupon alter their then current rate accordingly (*k*). Sect. 1.

(*a*) It will be observed that this provision applies to the hearing of the appeal. If due notice shall not have been given before the sessions, application may be made to enter and respite the appeal. The 17 Geo. 2, c. 38, s. 4, required the notice to be given before the appeal, and provided expressly that if reasonable notice had not been given the appeal should be adjourned.

This provision is not limited to cases of poor rates made upon lists approved of by the committee, but there is so large a proportion of the unions in which all the lists have been approved, that the operation of the clause will be practically limited to such case.

This is a condition which applies to the appeal against every rate. Therefore it was held to be necessary in the case of an appeal against a rate, where there was a previous undecided appeal against a rate on the same ground, in which case the notice had been given. *Reg.* v. *Great Western Railway Co.*, 20 L. T. 481; L. R. 4 Q. B. 323; 10 B. & S. 318; 31 L. J. M. C. 89; 33 J. P. 598.

(*b*) An important question arises on this word. Does the section apply to those parishes which are described in sect. 29 of the former Act? The language of the text is quite general, and seeing that if the sessions alter the rate upon appeal, the committee must, according to sect. 22 of that Act, alter the valuation list even of such parish, the reason for such a construction

Note to Sect. 1.

applies to the case, and leads to an answer in the affirmative.

(*c*) The 12 & 13 Vict. c. 45, s. 1, requires fourteen clear days' notice of appeal to be given generally, and this notice must still be given to the other parties to the appeal, but it would have been too short a notice for the committees, as in many cases the boards of guardians only meet fortnightly, so that there would oftentimes be insufficient time to prepare to meet the appeal.

The notice must be served in the manner prescribed by the 25 & 26 Vict. c. 103, s. 42, *ante*, p. 64.

It has been asked what objections can be made under this section. It seems clear that complaint may be made of the excess of the complainant's own assessment, and of the omission or under-assesment of another's. But some question arises as to the complaint of the insertion of exempted property. It is said that the committee cannot omit property alleged to be improperly inserted. However this may be, the objection should be made to the committee, as whatever may be their decision, it will prove that the complainant has done his best to obtain justice from the committee.

(*d*) As to objections by owners, see 32 & 33 Vict. c. 41, s. 13, *ante*, p. 25.

(*e*) This requisition does not apply to cases of appeal against the rate where the approved list has not been followed by the overseers, because in such cases the committee will have nothing to alter.

(*f*) The notice required by 27 & 28 Vict. c. 39, s. 1, to be given to the assessment committee before an appeal to quarter sessions must contain all the grounds of appeal, though on some of those grounds the assessment committee may be unable to give relief. *Williams* v. *Bedminster Union Assessment Committee*, 30 L. T. (N. S.) 710.

The notice of objection to the assessment committee and the failure to obtain relief from them are conditions precedent to appealing to the sessions, although the objection be not to the valuation of the property, but to its rateability; therefore in the event of an omission to give notice of objection to the valuation list and notice of appeal to the assessment committee before appealing to the quarter sessions, the court will quash the order of sessions, even in cases where the assessment committee have no power to grant relief. *Reg.* v. *Lancashire JJ.*,

43 L. J. M. C. 116. *S. C. Salford* v. *Salford JJ.*, 30 L. T. (N. S.) 403; 38 J. P. 361. Note to Sect. 1.

If there be an appeal against a rate on the ground of statutory exemption, such appeal may be prosecuted without going before the assessment committee, there being no objection to the valuation list, and the committee not being empowered to give relief. *Walsall* v. *London and North Western Railway Co.*, 46 L. J. M. C. 102.

A ratepayer aggrieved by his assessment to the poor rate gave notice of objection to the assessment committee under 27 & 28 Vict. c. 39, s. 1. The committee considering that a case then pending in a superior court would govern his case adjourned their decision. The ratepayer thereupon appealed against the rate to the quarter sessions. It was held that he had not "failed to obtain relief" from the committee within the meaning of sect. 1, and that the quarter sessions had consequently no jurisdiction to try the appeal. *Reg.* v. *Bedminster Union*, L. R. 1 Q. B. D. 503; 40 J. P. 340; 45 L. J. M. C. 117; 34 L. T. (N. S.) 795; 40 J. P. 743.

If there has been an objection to the valuation list and it has failed to produce the relief to which the objector thinks himself entitled, although some alteration may have been made, such objection is sufficient. *Reg.* v. *Derbyshire JJ.*, 25 L. T. (N. S.) 43.

In a case at the Norfolk Quarter Sessions (before *E. Kay*, Q.C., Chairman), reported in the *Law Times* newspaper of the 17th January, 1880, the court held that the mere objection to the valuation list, without producing any evidence or tendering any information before the assessment committee, is a sufficient compliance with the proviso to sect. 1 to enable the objector to appeal to the sessions. In giving the judgment of the court the Chairman stated as follows:—

"We have considered carefully the arguments that have been raised before us in this case, and in doing so the ruling consideration that presses upon us in coming to a decision is that this is an attempt on the part of the respondents to limit the right of appeal. That being so, it is for them to show clearly that the Act supports their contention. Now the Act says that before any appeal shall be heard the appellant shall give twenty-one days' notice in writing of the intention to appeal and the grounds thereof to the assessment committee of the

Note to Sect. 1.

union. Then there is introduced very awkwardly by a proviso that part of the section upon which reliance is now placed by the respondents. The section continues, 'provided that no person shall be empowered to appeal to any sessions against a poor rate made in conformity with the valuation list approved by such committee, unless he shall have given to such committee notice of objection against the said list, and shall have failed to obtain such relief in the matter as he deems just.' It is not denied that notice has been formally and regularly given to the committee, nor is it denied that in point of fact no relief has been given in the ordinary sense of words; therefore the appellants have failed to obtain relief. But the ingenious argument has been raised that as the appellants have not put the assessment committee in a position to give relief, they cannot be said to have failed to obtain it. The answer that occurs to my mind is this: the plaintiff in an action, as often happens in court, may produce no evidence in support of his case, whereupon he is nonsuited. Is it possible to say that a man who produces no evidence and is nonsuited does not fail to obtain relief? To carry this contention to its logical conclusion an objector before the committee would be bound not only to produce evidence, but to produce evidence better than that upon which they had come to a decision in originally making out the valuation list. If we upheld that contention we should be introducing a condition precedent that the Act itself does not impose. The case of *Reg.* v. *The Justices of Kent* has been cited. The language of the judges in that case may appear at first sight to support the argument for the respondents; but on looking into the case it appears that the appeal in the cases there referred to was absolutely abandoned, but here there has been no abandonment. When the agent of the company came before the committee he at once stated that he did so merely as a matter of form and as a preliminary to going to sessions. He submitted certain amounts to the committee 'without prejudice,' but he did not produce any accounts. The committee declined the offer, and that appears to us to have been equivalent to a nonsuit. We cannot see, therefore, how it is possible to deny that the company failed to obtain relief, and the objection must be accordingly overruled."

As illustrating the operation of this section in respect

Note to Sect. 1.

of the time for appealing the following cases are cited:— (1.) A poor rate was made and published on the 30th May. On the 11th June one L. gave notice of objection to the union assessment committee. The committee at its next meeting on the 30th June refused to grant him relief. The Midsummer quarter sessions for the county were held on the same day. L. having appealed to the following Michaelmas sessions the justices allowed the appeal to be entered; and under these circumstances it was held that L. could not be said to have failed to obtain relief from the committee until the 30th June; that he would not have been right in giving notice of appeal to the sessions until he had so failed; and that as L. was prevented by sect. 1 of the 27 & 28 Vict. c. 39, from appealing to the Midsummer sessions, his appeal to the Michaelmas sessions was not too late, *Reg.* v. *Biggleswade*, 21 L. T. (N. S.) 494. (2.) An assessment committee refused the appellants relief on the 3rd August. The next sessions of the borough were held on the 1st September. At the following sessions on the 26th October the appellants applied to enter an appeal against the rate, and the recorder granted the application on the ground that the sessions of the 1st September were not the next practicable sessions, seven days being in his opinion insufficient time for the appellants to determine whether or not to give notice of objection to the assessment committee under 27 & 28 Vict. c. 39, s. 1. Upon a rule for a prohibition it was held that this was a question of fact upon which the recorder's jurisdiction was based; the court had power to review his decision, and that he was wrong—per SMITH, J., "A week was long enough in this particular case; but I do not desire to lay it down that in every case no longer time ought to be allowed." *Reg.* v. *Liverpool, Recorder of*, 23 L. T. (N. S.) 813; 35 J. P. 186. *S. C. Liverpool United Gas Co.* v. *Everton*, L. R. 6 C. P. 414; 40 L. J. M. C. 104. (3.) A railway company objected to a supplemental valuation list, on the 11th May, to the assessment committee which, on 22nd May, refused to reduce the amount. The rate was made on 23rd May, and demanded from the company on 28th May. The assessment committee again met on 12th June, and the next quarter sessions was on 2nd July. The company again, on 31st July, objected to the assessment committee, which, on 4th September,

Note to Sect. 1.

again refused to reduce the same rate. The company then gave notice of appeal to next quarter sessions held in October:—*Held*, that the appeal was too late, for it should have been to the July quarter sessions, and there was no necessity to repeat the second application to the assessment committee, seeing that the rate was the same as before. *Reg.* v. *Wiltshire, JJ.*, 43 J. P. 654.

(*g*) Notice of objection to the valuation list may have been duly given under the statute 25 & 26 Vict. c. 103, and the objection may have been heard by the committee and overruled before they signed the list, or the party may have omitted to give notice of objection until the list shall have been finally approved of, and the rate shall have been made. Such person, if aggrieved by the poor rate, may then apply to the Assessment Committee to hear his objection, giving notice, at any time, to them.

He should do so as soon as he is aware of the rate, because if he do not give notice or do not appeal he will be liable to be served with process for the recovery of the rate, and the justice will not be bound, and perhaps not be justified in withholding the warrant to allow of the appeal.

Where an appeal is brought against a rate, an appeal cannot be brought against a second rate, though on the same basis, without again first applying to the assessment committee for relief. *Reg.* v. *Great Western Railway Co.*, 33 J. P. 598.

(*h*) It will be seen that the objection to which this clause applies may be made to the committee *at any time*. It may therefore be distinct from that specified in the 25 & 26 Vict. c. 103, *ante*, which applies to the preparing and correcting of the valuation list before the approval, and, consequently, before the rate which is the subject of the complaint has been made.

The manner of giving notice must be according to sects. 18, 19, *ante*, pp. 25, 26, and the service of the notice is described in sect. 42 of the same Act. If the valuation of another's property be objected to, notice must be given to him. No length of time is specified, but it must be a reasonable notice, depending upon the circumstances of the case, of which the committee will decide.

(*i*) Some committees make arrangements for setting apart particular days, at fixed intervals, for hearing objections under this section, analogous to the appoint-

ment of the special sessions under 6 & 7 Will. 4, c. 96. This seems a very prudent and satisfactory proceeding, provided that the intervals are not too long, so as to work an inconvenience to parties who have to complain, or the overseers who have to defend the rate. Note to Sect. 1.

(*k*) The overseers will, it is presumed, be bound to receive payment of the rate as so altered. If payment have been made before the appeal to the committee the statute does not require it to be refunded, and apparently the repayment cannot be enforced. See *Priestly* v. *Watson*, 2 Cr. & M. 691.

The current rate which is to be altered is the rate that was current when the objection was made. *Reg.* v. *Great Western Railway Co.* And where an appeal is made to an assessment committee who order the rate to be reduced, but their decision is not given till the time for which the rate was made has expired, the overseers must nevertheless treat the decision as applicable to the rate current at the time of the objection, and must refund the overcharge. *Reg.* v. *Great Western Railway Co.*, 38 J. P. 822.

When complaint has been made against a valuation list it is not necessary again to complain to the Assessment Committee against the rate after it is made. In such a case the ratepayers appeal lies to the next quarter sessions. *Reg.* v. *Wiltshire, JJ.*, 43 J. P. 317; L. R. 4 Q. B. D. 326.

Committee may, with consent of guardians, be co-respondents.

2. The Assessment Committee of such union may, with the consent of the guardians of such union, after notice shall have been sent to every guardian (*a*), appear as respondents to such appeal, but in the name of the guardians of such union, in like manner, and with the same incidents, and subject to the same liabilities, and entitled to the same remedies and rights, as in the case of persons other than the overseers to whom notice of appeal may be given (*b*).

(*a*) This notice will be in the nature of a summons for an extraordinary meeting, and must be prepared and served by the clerk of the guardians.

(*b*) See 17 Geo. 2, c. 38; 41 Geo. 3, c. 3, s. 6; 6 & 7 Will. 4, c. 96, s. 7; and 12 & 13 Vict. c. 45, s. 5.

Note to Sect. 2.

The following bears upon the right of appeal. A ratepayer served notice of appeal under 6 & 7 Will. 4, c. 96, s. 6, upon the Assessment Committee. The committee obtained the consent of the guardians to appear as respondents to the appeal at the special sessions in the name of the guardians as provided by 27 & 28 Vict. c. 39 s. 2. The justices at special sessions reduced the gross value and the rateable value, whereupon the Assessment Committee instructed their clerk to serve notice of appeal in the name of the guardians on the ratepayer to the next quarter sessions. When the appeal came on for hearing the justices refused to proceed to hear the case on the merits, and dismissed the appeal on the ground that the Assessment Committee had no right to appeal and they confirmed the order of the special sessions. On a rule to the justices to show cause why a writ of *mandamus* should not issue commanding them to enter continuances and hear the appeal, it was held (DENMAN, J., POLLOCK, B., and WILLES, J.) that the guardians had a right to appeal, it being an appeal of that character to which the words in 27 & 28 Vict. c. 39, s. 2, applied: *Llanidloes and Newtown Union* v. *Pryce Jones*, 44 L. T. (N.S.) 310; 45 J. P. 407.

It will be well to introduce here the 31 & 32 Vict. c. 122, s. 29, which provides for a mutual defence of unions interested in the principle involved in the appeal. It is in the following words: "Where an appeal is brought against the poor rate of a parish in a union, and may appear to involve a principle in which some neighbouring parish has a common interest, it shall be lawful for the guardians of the unions comprising such parishes to enter into an agreement mutually to bear the costs which may be properly incurred in and about the trial of such appeals on the part of the several respondents, as well as the costs of the appellants, if any, which may be awarded against the respondents, in such proportions as shall be fixed and determined with reference to the amount of interest of the several unions in the question, or otherwise as shall appear just; and the said agreement shall continue binding upon the several boards of guardians and their respective successors in succession until the several appeals shall have been finally determined."

Provision as to costs of com-

3. The costs which the committee may incur in consequence of becoming respondents to

such appeal, or of having received notice thereof, shall, if not recovered from the appellants (*a*), as well as any costs the committee may be ordered to pay to the appellants, be paid by the guardians and charged to the common fund of the union, unless the court before whom such appeal is heard shall direct that such costs, or any part thereof, shall be charged to the parish the rate of which is appealed against (*b*).

(*a*) See 12 & 13 Vict. c. 45, s. 5.

(*b*) It may happen that the parish officers or influential persons in the parish may have grossly misled the committee, and may have given erroneous information, or withheld valuable information in their possession, and thus have caused the committee to come to an erroneous decision upon the valuation list. In such a case the justices may very properly order the parish to pay the costs, wholly or in part, of the appeal.

Valuation to be made in writing.

4. Where a valuer is appointed (*a*) by the Assessment Committee he shall make his valuation in writing, showing the particulars of the several hereditaments comprised therein, and the amounts at which he has valued the same (*b*) respectively, and shall sign such valuation, which shall be open to inspection in like manner and with the same incidents with respect to the taking of copies or extracts as the minute books of the committee (*c*).

(*a*) This clause is confined to the appointment of the valuer by the committee, and does not therefore extend to the appointment by the overseers. It was not retrospective in its operation. *Reg.* v. *Cobbe*, 13 L.T. (N.S.) 802.

(*b*) *Field Valuation.*—Valuers employed by an assessment committee under 27 & 28 Vict. c. 39, s. 4, to value a farm, furnished a valuation list, giving the estimated average of each of the several fields comprising the farm, but not the gross estimated rental or the rateable value of each or any of the fields separately, but giving those two last-named amounts in lump sums in the proper

Note to Sect. 4.

columns at the end of the several items comprising the entire farm. On a special case stated, it was held by the Exchequer Division that such a list was sufficient and in conformity with the requirements of the Act, and that it was unnecessary to give the value of each individual field of the farm separately. *Rawlence* v. *Hursley Union,* 37 T. T. (N.S.) 503; 47 L. J. M. C. 31.

(*c*) See 25 & 26 Vict. c. 103, s. 11, *ante,* p. 11. It is assumed by this section, that the valuation will be deposited with the committee, but probably in many cases the fact will be otherwise.

Notice of assessment to be given to certain companies.

5. Within fourteen days after the transmission to the Assessment Committee of any valuation (*a*) or supplemental valuation list the committee shall give notice to every railway, telegraph, canal, gas, and water company named in such list as the occupier of any property included therein, and not having any office or place of business in the parish to which such list relates (*b*), of the sum or sums set down as the rateable value of the property purporting to be occupied by such company or companies, and such notice (*c*) may be served by being transmitted through the post to the principal office of the company, or one of their principal offices when there shall be more than one.

(*a*) As in most unions the original valuation lists have been already transmitted, the first of these alternatives will be in little operation, and the committee will have only to deal with supplemental valuations.

(*b*) Note that this notice is not required to be sent to the companies in all cases, but only where the company has no office in the particular parish.

(*c*) It should be addressed to the proper title of the company, as the case shall require.

Justices in certain cases not disqualified for hearing appeals.

6. No justice of the peace shall be disqualified for acting in the determination of any appeal against a poor rate at any quarter or

Sect. 6.

special sessions by reason of such justice being rated, or being liable to be rated, in some other parish in the union than that for which the rate appealed against is made (*a*).

(*a*) See the 16 Geo. 2, c. 18, and the 5 & 6 Vict. c. 57, s. 15, which latter Act removes the objection of the justice being a party to the appeal. The clause in the text only refers to the pecuniary interest.

Expenses of overseers incurred with consent of vestry or allowed by Assessment Committee may be charged on poor rates.

7. When the overseers of any parish incur any expense in making out any valuation list (*a*) or supplemental list (*b*), or in revising or valuing any of the rateable hereditaments of such parish, under the provisions of the Union Assessment Committee Act, 1862, with the consent of the vestry given by express resolution, after due notice (*c*), they may charge such expense, so far as the same may be authorized by the vestry, upon the poor rate (*d*); and if no vestry meeting be held, or no decision arrived at on the subject, then to the extent which the Assessment Committee shall allow (*e*): Provided that, as regards the valuation of the property, no expense shall be so charged upon the poor rate unless the consent of such committee to the procuring of such valuation by the overseers shall have been given previously to the same being made.

(*a*) See 25 & 26 Vict. c. 103, s. 14, as regards original valuations, which have, however, for the most part, been sent in, and the language of the clause does not appear to warrant a retrospective construction.

(*b*) See *Ibid.* ss. 26, 28. The clause deals with three classes of cases:—1. The making out the list. 2. The revising the rateable hereditaments. 3. The valuing the same. The vestry must give their consent to the expense incurred by the overseers in respect of these separate items. The statute does not, as it seems, require

Note to Sect. 7.

such consent to be given before the expense has been incurred. But the overseer will do well, in all cases where practicable, to take the sense of the vestry *before* he incurs *any* expense.

He must always be careful to observe that he cannot procure a valuation to be made, to be paid for out of the poor rate, unless he has previously obtained the consent of the Assessment Committee to its being procured. The committee will determine whether such valuation is required; and it will be most convenient if the overseers require a valuation that they should apply to the committee in the first place, and obtain their consent before they apply to the vestry to sanction the expense.

It is to be observed that this clause applies to the expenses incurred by the overseers, it does not authorize any remuneration to them for their own labours or services. Neither will it legalize charges for refreshments supplied to the overseers or members of the vestry engaged upon the revision of the lists.

The next clause enables the Assessment Committee to obtain a loan for payment of a valuation ordered by them, but this power does not, as it seems, extend to the valuation made under the engagement of the overseers.

(*c*) The notice must be in writing, signed by the minister, or one of the churchwardens or overseers of the parish, and must be affixed on the principal outer door of every church and chapel of the Established Church in the parish, so that three clear days must elapse, after the Sunday when it is affixed, before the meeting. The purpose for which the meeting is to be called must be clearly set forth in the notice. The resolution should be carefully entered in the Vestry Minute book.

(*d*) *Overseers costs—Consent of vestry.*—Where overseers incur expense by employing clerks in making a new valuation list or supplemental list, and obtain the consent of the vestry to charge this extra expense on the poor-rate, the auditor has no power to disallow the item in their accounts. *Reg.* v. *Chorlton-upon-Medlock*, 40 J. P. 533; L. R. 1 Q. B. D. 62; 45 L. J. M. C. 33; 33 L. T. (N.S.) 526. See also *Reg.* v. *Cumberledge*, 36 L. T. (N. S.) 700; L. R. 2 Q. B. D. 366; 46 L. J. M. C. 214, in which the court held that the valuation was not an assessment, that an amount charged by the vestry clerk for making it might have been sanctioned

by the vestry, and that the claim of the vestry clerk to be paid was not restricted to expenses out of pocket. Note to Sect. 7.

(*c*) Some doubt may arise whether the meeting must not have been summoned before the Assessment Committee can make the allowance; but, however this may be, it seems to be very proper that the committee should require the meeting to be summoned before they proceed to investigate the claim, because the decision of the vestry may relieve them of the responsibility.

Power to guardians, with the order of the Poor Law Board, to borrow money for valuation expenses.

8. If the Assessment Committee order a valuation, with the consent of the board of guardians, to be made of all (*a*) the rateable hereditaments of any parish (*b*), the guardians of the union may, if they think fit, apply to the Poor Law Board for an order to enable them to borrow the requisite amount to pay the cost of such valuation; and if the said board shall issue their order (*c*), the said guardians may borrow the same, and charge the poor rates of the several parishes in the union with the repayment of the same by not more than five equal annual instalments (*d*); and where the parish for which the valuation is made shall, by reason of any provision in the said Union Assessment Committee Act (*e*) or this Act, be liable to pay the cost of such valuation, the said guardians shall charge the annual instalments, and the interest payable therewith, to such parish, and may recover the same as and with the usual contributions.

(*a*) This section does not apply to cases of partial valuations, however extensive they may be.

(*b*) See sects. 16, 20, 26, of the 25 & 26 Vict. c. 103, *ante*.

(*c*) The board have a discretion as to the issuing of such order, and are influenced by the extent of the expense in comparison with the annual rateable value of the parish valued.

(*d*) As to the form of security, see 32 & 33 Vict. c. 45,

Note to Sect. 8.

s. 6, and as to the payment of the instalments, see 22 & 23 Vict. c. 49, s. 3. A question may arise whether the 32 & 33 Vict. c. 45, will extend the time of repayment of these loans, but looking at the amount of the loans the guardians will rarely desire to extend the time for repayment beyond five years.

(*e*) See sect. 29 of the 25 & 26 Vict. c. 103.

Clerks of Assessment Committees to furnish clerks of the peace with totals of valuation.

9. The clerk of every Assessment Committee shall (*a*) send annually, in the month of December, copies of the totals of the gross estimated rental and rateable value of the property included in the valuation lists of the several parishes within the union, and where such totals have been altered by any supplemental valuation list or lists, then of such totals as altered, to the clerk or respective clerks of the peace of the county or counties within which such parishes respectively may be situate (*b*).

(*a*) No penalty is prescribed for the omission, but if the clerk wilfully neglects he will be liable to an indictment upon the general common law rule, which subjects a person to a prosecution for a misdemeanor if he wilfully disobeys a statute.

(*b*) The 15 & 16 Vict. c. 81, is the last statute which provides for the preparation and assessment of the county rate. See note on 25 & 26 Vict. c. 103, s. 28, *ante*.

Power to Poor Law Board to order map or plan to be made.

10. If there be no map or plan of any parish available for the use, or sufficient for the purposes of the Assessment Committee (*a*), the committee may, with the consent of the guardians (*b*), after notice as aforesaid (*c*), and under the authority of an order of the Poor Law Board (*d*), appoint a competent person to make a map or plan of such parish (*e*), and the cost thereof shall be charged either to the common fund, or to the parish, as may be directed by the Poor Law Board.

Note to Sect. 10.

(*a*) These words will enable maps to be made where existing plans of parishes have become inaccurate by reason of changes in the occupations or holdings of the lands, the making or the destruction of streets or of other hereditaments. It is only when the committee require the map for their use, or the purpose of the valuation, that this section applies. The committee cannot obtain a map under it for any other purpose.

(*b*) It is to be observed that neither the vestry nor the parish officers need be consulted.

(*c*) See sect. 2, note (*a*), *ante*, p. 77.

(*d*) The Local Government Board require to be satisfied that the map is really wanted to enable the provisions of these Acts to be carried out with effect. If the valuation list has been already approved, or if the map be required to aid some other purpose, such necessity cannot be readily shown. They require to be informed whether there has been a map of the parish made recently or not, and if so, why it is not sufficient, and whether any estimate has been obtained of the cost of the proposed map. Moreover, though the Act does not require the consent of the vestry or parish officers, they require to learn their views upon the proposal, at all events, unless the guardians propose to procure it at the cost of the common fund.

(*e*) The statute does not in terms enable the committee to purchase an existing map, or to have a copy of one made for them. Apparently they are to appoint a person to make a map after a careful and accurate survey of the parish.

Penalty on overseers omittting to make declaration or making false declaration.

11. Any overseer who wilfully (*a*) omits to make the declaration required to be made by the Union Assessment Committee Act, 1862 (*b*), or makes the same falsely, knowing the same to be untrue, shall be liable for every such offence to a penalty not exceeding five pounds, upon a summary conviction for the same before two justices of the peace.

(*a*) See note (*a*) on 25 & 26 Vict. c. 103, s. 40, *ante*, p. 62.

(*b*) See sect. 28, *ante*, p. 42.

Sect. 12.

25 & 26 Vict. c. 103, incorporated herewith.

12. The provisions of the Union Assessment Committee Act, 1862, shall, so far as the same are not contrary hereto, be incorporated herewith, and the terms used herein shall be construed in like manner as in that Act (*a*).

(*a*) See 25 & 26 Vict. c. 103, s. 1, *ante*, p. 1.

Short title.

13. This Act may be cited as "The Union Assessment Committee Amendment Act, 1864."

THE

UNION ASSESSMENT ACT, 1880.

43 & 44 Vict. Cap. 7.

An Act to extend the Union Assessment Committee Acts to single parishes under separate Boards of Guardians.

[19th July, 1880.]

Whereas under section forty-five of the Union Assessment Committee Act, 1862, as amended by subsequent Acts, it is provided that on the aplication of the body having the management of the relief of the poor in any union or incorporation under a local Act, the Local Government Board may order such union or incorporation to be included in the Union Assessment Committee Act, 1862, and it is expedient to make the like provision with respect to single parishes which are not included in any union of parishes either under a local Act or under the Poor Law Amendment Act, 1834: 25 & 26 Vict. c. 103, s. 45. 25 & 26 Vict. c. 103. 4 & 5 Will. 4, c. 76.

Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same as follows:

1. This Act may be cited as the Union Assessment Act, 1880, and together with the Union Assessment Committee Act, 1862, and the Union Assessment Committee Amendment Short title. 25 & 26 Vict. c. 103. 27 & 28 Vict. c. 39.

Sect. 1. Act, 1864, may be cited as the Union Assessment Acts, 1862 to 1880.

Application of 25 & 26 Vict. c. 103, s. 45, to single parishes under, separate boards of guardians. 4 & 5 Will. 4, c. 76. 25 & 26 Vict. c. 103.

2. Section forty-five of the Union Assessment Committe Act, 1862 (*a*), shall apply to a parish which is not included in a union of parishes, and in which the relief of the poor is administered by a board of guardians elected under the Poor Law Amendment Act, 1834, or under any local Act, in like manner as near as may be as it applies to any union or incorporation for the relief of the poor formed under a local Act, and the Union Assessment Committee Act, 1862, and the Acts amending the same, shall be construed accordingly; and in relation to any such single parish the expression "common fund" in the said Acts shall be construed to mean the money applicable for the relief of the poor.

(*a*) See 25 & 26 Vict. c. 103, s. 45, *ante*, p. 66.

Extent of Act. 32 & 33 Vict. c. 67.

3. This Act shall not extend to the metropolis as defined by the Valuation (Metropolis) Act, 1869.

THE

VALUATION (METROPOLIS) ACT, 1869.

32 & 33 Vict. Cap. 67.

An Act to provide for uniformity in the Assessment of Rateable Property in the Metropolis.
[9th August, 1869.]

Whereas it is expedient to provide for a common basis of value for the purposes of government and local taxation, and to promote uniformity in the assessment of rateable property in the metropolis: Be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same as follows:

Preliminary.

Act to be construed as one with 25 & 26 Vict. c. 103, and 27 & 28 Vict. c. 39.

1. The Union Assessment Committee Act, 1862, is in this Act referred to as "the principal Act; and the principal Act, and the Union Assessment Committee Act, 1864 (amending the same), shall for the purposes of this Act, and so far as is consistent with the tenor thereof, be incorporated with this Act; and the expression "this Act" in the principal Act, and any expression referring to the principal Act which occurs in the said Act amending the same, or in any other Act or document, shall, as regards places to which this Act extends, be construed

Sect. 1. to mean the principal Act as incorporated with this Act.

See sect. 35 (*a*) and (*b*), as to the provisions of the incorporated Acts.

By sect. 77, sched. 5, *post*, certain sections of th "principal Act," are repealed as regards the Metropolis. They are denoted by an asterisk [*]preceding each.

Short title

2. This Act (including the Acts incorporated herewith) may be cited as The Valuation (Metropolis Act), 1869.

Extent of Act.

3. This Act shall extend only to unions and parishes not in union, which are for the time being either wholly or for the greater part in value thereof respectively situate within the jurisdiction of the metropolitan board of works appointed under The Metropolis Management Act, 1855.

18 & 19 Vict. c. 120.

The following is the district (according to Poor Law administration) of "the Metropolis," as defined by the Metropolis Local Management Act, 18 & 19 Vict. c. 120, s. 250.

SCHEDULES A. B. & C.

KENT, —*Unions.*—Greenwich — Lewisham—Woolwich.

MIDDLESEX,—*Unions.*—Fulham—Hackney—Holborn—City of London—Poplar—St. George's—Stepney—Strand—Westminster—Whitechapel.

Parishes.—Bethnal Green—Chelsea—Hampstead—Islington—Kensington—Mile End Old Town—Paddington—St. George-in-the-East—St. Giles-in-the-Fields and St. George, Bloomsbury—St. Marylebone—St. Pancras—Shoreditch.

SURREY,—*Unions.*—St. Olave's—St. Saviour's—Wandsworth and Clapham.

Parishes.—Camberwell—Lambeth.

The following, by 18 & 19 Vict. c. 120, s. 250, are also included in "the Metropolis:" Charterhouse—Inner

Temple—Middle Temple—Lincoln's Inn—Gray's Inn—Staple Inn—Furnival's Inn, and The Close of the Collegiate Church of St. Peter. Note to Sect. 3.

By 20 Vict. c. 19, the three first-mentioned places are constituted parishes; but by sect. 3 of that Act, are not liable to be added to any union or other district for any of the purposes mentioned in the first section of the Act. Lincoln's Inn, Gray's Inn, Staple Inn, and Furnival's Inn, either form parts of parishes in the Metropolis or are in a union. The Close of the Collegiate Church of St. Peter does not contribute to the poor rates of any parish, but it has overseers appointed for county purposes.

4. In this Act, unless the context otherwise requires,— Definitions.

The term "Metropolis" means the unions and parishes to which this Act extends: "Metropolis:"

The term "parish" means any place for which a separate poor rate is or can be made, or for which a separate overseer is or can be appointed: "Parish:"

By 29 & 30 Vict. c. 113, s. 18, the word "parish" is to have the same interpretation "in all statutes" as is here given to it, "except there shall be something in the context inconsistent herewith." In the present interpretation there is no such exception.

The term "union" means any union of parishes, and any parish for which there is a separate assessment committee under this Act and the Acts incorporated herewith: "Union:"

Therefore the term "union" for the purposes of this Act will apply to all unions and separate parishes under boards of guardians; the latter will have assessment committees appointed under sect. 5, *post*, p. 94, the former under 25 & 26 Vict. c. 103, s. 2, *ante*, p. 2.

Sect. 4.

"Ratepayer:"

The term "ratepayer" means every person who is liable to any rate or tax in respect of property entered in any valuation list:

But for this interpretation it would have been very difficult to define what a "ratepayer" is, whether a person who is actually rated, and has paid his rate—one rated who is liable to pay but has not paid his rate—or one who is liable to be rated, but who in fact has not been rated. An owner rated under the Poor Rate Assessment and Collection Act, 1869, 32 & 33 Vict. c. 41, s. 4, will be a ratepayer.

"Year:"

The term "year" means the twelve months commencing with the sixth of April and ending with the succeeding fifth of April; and words referring to a year refer to the same period:

The twelve "months" will be calendar months, see 13 Vict. c. 21, s. 4.

"Surveyor of taxes:"

The term "surveyor of taxes" means any surveyor of taxes, inspector of taxes, or other officer appointed or to be appointed by the commissioners either of inland revenue or of Her Majesty's treasury for the purposes of any tax in respect of which a valuation list is by this Act made conclusive:

"Overseers."

The term "overseers" includes any person or body of persons performing the duties of overseers so far as regards the assessment, making, and collection of rates for the relief of the poor:

The term therefore will apply to directors of the poor and other bodies under local Acts who make and collect the poor rates. The local board of health for Woolwich, who make the poor rates, will come within the definition.

Sect. 4. "Vestry clerk:"

The term "vestry clerk" means the vestry clerk, if any, elected under the Act of the session of the thirteenth and fourteenth years of the reign of Her present Majesty, chapter fifty-seven, or under a local Act, or if there is no such clerk, the vestry clerk appointed under "The Metropolis Management Act, 1855:"

The following are the parishes in the metropolis in which vestry clerks are appointed under the 13 & 14 Vict. c. 57:—

Christchurch, Spitalfields,
Fulham,
Hammersmith,
Mile End New Town,
Mile End Old Town,
Plumstead,
Putney,
Saffron Hill, Hatton Garden, and Ely Rents.
St. Anne, Blackfriars,
St. Anne, Westminster,
St. Dunstan-in-the-West,
St. Leonard's, Bromley,
St. Margaret and St. John, Westminster,
St. Mary Abbotts, Kensington,
St. Mary, Battersea,
St. Mary, Rotherhithe,
St. Nicholas, Deptford,
St. Paul, Covent Garden,
St. Paul, Deptford,

The parish of St. Mary Abbotts, Kensington, is in Schedule A., and St. Margaret and St. John, Westminster, in Schedule B. of the Metropolis Local Management Act. For the former the vestry elected under the Metropolis Management Act, 18 & 19 Vict. c. 120, act as a board, and for the latter there is a board of works, though it is in fact only one parish for civil purposes. For all the other parishes in Schedule A. the clerk appointed by the vestry under the Metropolis Management Act, will be the vestry clerk within the meaning of this Act.

St. Giles-in-the-Fields, and St. George, Bloomsbury,

Note to Sect. 4.

though two parishes for ecclesiastical purposes are one parish only for civil purposes, but they are treated as two civil parishes in Schedule B., and have a board of works appointed for them.

"Hereditament:"

The term "hereditament" means any lands, tenements, hereditaments, and property which are liable to any rate or tax in respect to which the valuation list is by this Act made conclusive:

See sect. 45, *post*, p. 123.

"Gross value."

The term "gross value" means the annual rent which a tenant might reasonably be expected, taking one year with another, to pay for an hereditament, if the tenant undertook to pay all usual tenant's rates and taxes, and tithe commutation rent-charge, if any, and if the landlord undertook to bear the cost of the repairs and insurance, and the other expenses, if any, necessary to maintain the hereditament in a state to command that rent:

"Rateable value."

The term "rateable value" means the gross value after deducting therefrom the probable annual average cost of the repairs, insurance, and other expenses, as aforesaid:

The Acts specified in the First Schedule to this Act are in this Act referred to by the short title placed opposite to them in that schedule.

The Acts specified in the schedule are referred to in sect. 45 (*a*) (*b*), *post*, pp. 124, 126; and also in the two sub-sections p. 125, *post*.

Assessment Committee.

Election of assessment committee

5. Where, in any parish which is not included in any union formed under the Poor

Law Amendment Act, 1834, and the Acts amending the same, there is for the time being a vestry elected according to the provisions of the Metropolis Management Act, 1855, but no assessment committee under the principal Act, the following provisions shall have effect : Sect. 5. in single parish where there is a vestry.

(1.) Where in any such parish there is a board of guardians having power under any local Act to assess or make the rates for the relief of the poor, that board of guardians shall appoint an assessment committee :

This sub-section has reference to the parish of St. Luke, Chelsea, the guardians of which under a local Act make the poor rate as overseers.

(2.) Where any two of such parishes are united under a local Act for the purpose of assessing or making the rates for the relief of the poor, the guardians for such united parishes elected in pursuance of the Poor Law Amendment Act, 1834, and the Acts amending the same, shall appoint an assessment committee :

There are no parishes in the metropolis united for the purpose of making and assessing the poor rates. St. Giles-in-the-Fields, and St. George, Bloomsbury, are two ecclesiastical parishes, but are one parish for all poor law purposes ; though under the Local Act, the arrangement with regard to the action of the joint vestries is peculiar. St. Margaret and St. John, Westminster, is also one poor law parish, though they form two ecclesiastical parishes. The parish is now in the St. George's union.

(3.) In cases other than those before mentioned the vestry of such parish shall appoint an assessment committee :

Sect. 5.

(4.) In the first year after the passing of this Act and every subsequent year, the body who appoint an assessment committee under this section shall on a day fixed by such body between the fifteenth and twenty-ninth of April in that year, or some other day fixed by the Poor Law Board, hold a meeting, and appoint from among themselves an assessment committee (consisting of not less than six nor more than twelve in number) in the same manner, as near as may be, as if the parish or united parishes were an union and the appointing body a board of guardians within the meaning of the principal Act.

See 25 & 26 Vict. c. 103, ss. 2, 4, 5, 6, *ante.*

All provisions of this Act and the Acts incorporated herewith shall—

(*a*) in cases where the assessment committee is appointed by guardians under this section be construed as if such guardians, and the monies applicable by such guardians for the relief of the poor were the guardians mentioned in the principal Act and the common fund; and—

(*b.*) in cases where the assessment committee is appointed by the vestry be construed, so far as is consistent with the tenor thereof, as if the terms vestry, members of the vestry, vestry clerk, assistant vestry clerk, and monies applicable to the payment of the ex-

penses of a vestry under the Metropolis Management Act, 1855, were respectively substituted for the terms board of guardians, guardians, clerk of the board of guardians, assistant clerk of the board of guardians, and common fund, but nothing in such Acts relating to *ex-officio* guardians shall have any application in the case of a vestry. Sect. 5.

There is no such officer as "assistant vestry clerk." The term seems to have been used as co-relative to the term "assistant clerk of the board of guardians," in 25 & 26 Vict. c. 105, s. 10, *post*. See the definition of vestry clerk, *ante* p. 93. As to *ex-officio* guardians, see 25 & 26 Vict. c. 103, s. 2, *ante*, p. 2.

The following are the parishes in the metropolis to which this section will apply, and the local rating authorities in each :—

St. Matthew, Bethnal-green, 53 Geo. 3, c. cxiii, ss. 9, 10	The vestry.
St. Luke, Chelsea, 4 Vict. c. xvii, ss. 6, 7.	The guardians.
St. John, Hampstead, 39 & 40 Geo. 3, c. xxxv.	?
St. Mary, Islington, 5 Geo. 4, c. cxxv, ss. 32, 33.	The vestry.
[The rates are made upon the assessments of twelve inhabitants appointed by vestry.]	
St. Mary Abbott's, Kensington, 17 Geo. 3, c. lxiv.	Churchwardens over seers, and vestry.
Paddington, 5 Geo. 4, c. cxxvi, s. 112.	The vestry.
St. George-in-the-East. 46 Geo. 3, c. lxxvii, ss. 13, 14.	The trustees.
St. Giles-in-the-Fields, and St. George, Bloomsbury, 11 Geo. 4, c. x, s. 86.	The joint vestry.
St. Marylebone, 35 Geo. 3, c. lxxiii, s. 179.	The vestry.
St. Pancras, 59 Geo. 3, c. xxxix, s. 69	The vestry.

Note to Sect. 5.

St. Leonard, Shoreditch, 21 & 22 Vict. c. cxxxii, s. 56	The vestry.
St. Giles, Camberwell, 53 Geo. 3, c. clxii, s. 1.	Churchwardens and overseers.
St. Mary, Lambeth, 50 Geo. 3, c. 19.	Churchwardens and overseers.

Making of Valuation Lists.

Making of valuation lists.

6. The overseers of every parish to which this Act extends, within the time in this Act mentioned, shall make and sign a valuation list of their parish in duplicate, in accordance with this Act.

Before 1st June, 1870, see sect. 42 (1), *post*, p. 119.

Valuation lists to be dealt with under 25 & 26 Vict. c. 103. ss. 17 to 21.

7. After the valuation list is signed by the overseers the same proceedings shall be had as are directed by the seventeenth, eighteenth, nineteenth, twentieth, and twenty-first sections of the principal Act, subject to the alterations made by this Act.

See these sections *ante*, pp. 23, 25, 26, 29, and 32. See also sect. 13, *post*, p. 100, which provides for a failure on the part of the overseers to transmit the list.

Duplicate sent to surveyor of taxes.

8. The overseers shall send one duplicate of the valuation list to the surveyor of taxes of the district at the same time that the other duplicate is deposited by them. The surveyor of taxes shall insert in the duplicate so sent to him the amount in his opinion of the gross value of the hereditaments comprised in such list where such amount differs from the amount inserted by the overseers, and shall transmit the duplicate to the assessment committee within twenty-eight days after he has received the same.

See 25 & 26 Vict. c. 103, s. 17, *ante* p. 23, as to the deposit of the valuation list.

The surveyor of taxes in transmitting the duplicate should authenticate it by a letter, as it will be seen from the form of the list, Schedule 2, Part 1, *post*, p. 150, no provision is there made for his signature. **Note to Sect. 8.**

Notice to occupier of alteration of value, &c.

9. In each of the following cases; namely,

(1.) Where the overseers of the parish insert in the valuation list some hereditament not previously assessed, or raise the gross or rateable value of some hereditament above the value stated in the valuation list for the time being in force or (where there is no valuation list) in the then last assessment to the poor rate, or

(2.) Where the assessment committee (otherwise than in determining an objection) alter a valuation list by inserting therein some hereditament, or by raising the gross or rateable value of some hereditament comprised therein,

the overseers shall immediately after the deposit or re-deposit of the list (as the case may be) serve on the occupier of such hereditament, a notice of the gross and rateable value thereof inserted in the valuation list.

Notice to state time and mode of objection.

10. The notice of the deposit and re-deposit of the valuation list published by the overseers shall state the times at which and the mode in which objections are to be made.

See section 42 (3), *post*, p. 119, as to the giving notices of objection.

Grounds on which persons may object before

11. Objections may be made before the assessment committee by any person authorized by this Act and the Acts incorporated

Sect. 11. assessment committee.

herewith to object who feels himself aggrieved by reason of the unfairness or incorrectness of the valuation of any hereditament, or by reason of the insertion or incorrectness of any matter in the valuation list, or by reason of the omission of any matter therefrom, or by reason of such a valuation list as is required by this Act not having been transmitted by the overseers to the assessment committee. The notice of objection shall specify the correction which the objector desires to be made.

See section 12, *post*, and 25 & 26 Vict. c. 103, s. 18, *ante*, p. 25.

Surveyor of taxes, &c., may inspect, copy, and object to valuation list.

12. A surveyor of taxes, and any ratepayer in the parish, shall have the same right of inspecting, copying, taking extracts from, and objecting to any valuation list which relates to his district or parish as is given to any person by this Act and the Acts incorporated herewith.

If overseers do not transmit list, committee to appoint a person to do so.

13. If the overseers of any parish fail to transmit such a valuation list as is required by this Act, the assessment committee shall appoint some person to make a valuation list, and may allow such person such remuneration in addition to his expenses as they think fit; and all expenses incurred by the assessment committee in pursuance of this section shall be paid by the guardians, and charged by them to such parish.

The person so appointed shall have for the purposes of this section the same powers and duties as overseers, and the valuation list so made shall be dealt with in the like manner as

if it had been duly made and transmitted by the overseers. Sect. 13.

See sections 6, 7, *ante*, p. 98, and note on the latter.

Valuation list to be revised, certified, and sent to overseers, &c.

14. The assessment committee, within the time of this Act mentioned, shall revise the valuation list in accordance with this Act and the Acts incorporated herewith. When they have finally approved such valuation list, they shall cause the totals of the gross and rateable value in such list to be ascertained and inserted in the list, and three members of the committee present at the meeting at which the list is finally approved shall sign at the foot thereof such declaration of approval and certificate of compliance with this Act as is contained in Part One of the Second Schedule to this Act. One duplicate, so certified, shall be sent to the clerk of the managers of the metropolitan asylum district, and the other duplicate to the overseers of the parish to which it relates.

See section 42 (4), *post*, p. 120, as to the time for revision of the list; and also 25 & 26 Vict. c. 103, s. 21, *ante*, p. 32. See also sect. 42 (8), *post*, p. 121, as to the time within which the approved lists are to be sent to the overseers; and see also sect. 68, *post*, p. 144.

Deposit of duplicate of list in each parish.

15. The overseers of the parish, on receiving the duplicate of the valuation list so sent to them by the assessment committee, shall immediately deposit it in the place in which the rate books of the parish are kept, and shall publish notice of such deposit, and of the time and mode of making appeals, and of the grounds on which an appeal is allowed by this Act to be made.

See sect. 22, *post*, p. 105; and sect. 42 (9), (10), *post*, p. 121, as to the time of sitting of special sessions to hear

Note to Sect. 15.

appeals, and sect. 30 p. 110; and sect. 42 (12), (13), (14), p. 121, *post*, as to the time of sitting of justices in assessment sessions to hear appeals.

Deposit of list at office of the managers of metropolitan asylum district.

16. The certified valuation list so sent to the clerk of the managers of the metropolitan asylum district by the assessment committee shall be deposited at the office of such managers, and within the time in this Act mentioned shall be returned by such clerk to the same assessment committee.

That is, sent as directed by sect. 14, *supra*. The time mentioned for the return of the list is in sect. 42 (11), *post*, p. 121.

Printing and distribution of totals of gross and rateable value in valuation list.

17. The clerk of the managers of the metropolitan asylum district shall, within the time in this Act mentioned, cause the totals of the gross and rateable values of all the valuation lists to be printed, and a printed copy of all such totals to be sent to every assessment committee, and the overseers of every parish in the metropolis and in every county in which any parish to which any of such totals relate is situate, to the clerks of the peace for every such county, to the Commissioners of the Metropolitan Police, the Corporation of the City of London, the Metropolitan Board of Works, every district board in the metropolis, and the Poor Law Board. Every assessment committee, overseer, and ratepayer within the metropolis and every such county shall respectively be entitled to have printed copies of such totals on payment of one penny for each copy of all the said totals.

"Before the 1st December," is the time mentioned, see sect. 42 (11), *post*, p. 121.

The district boards in the metropolis are the vestries and boards of works of the parishes and districts mentioned in Schedules A. and B. of the Metropolis Local Management Act. Note to Sect. 17.

Appeals.—Special Sessions.

18. In every petty sessional division in the metropolis the justices of the peace acting in and for such division shall, in every year at the time mentioned in this Act, hold a special sessions for hearing appeals under this Act against the valuation lists of the several parishes within such division. Holding of special session to hear appeals.

The time mentioned for holding petty sessions will be found in sect. 42 (10), *post*, p. 121.

The following are the special sessions divisions in the metropolis:—

City of London, Guildhall.
Holborn Division, Freemasons' Tavern, Great Queen Street.
Marylebone Division, Court House, Marylebone Lane.
St. Pancras Division, Vestry Rooms, Old St. Pancras Road.
Paddington Division, Vestry Hall, Harrow Road.
Finsbury Division, Clerkenwell Sessions House.
Tower Division, Court House, Great Prescott Street, Whitechapel.
Kensington Division, Vestry Hall, Kensington.
St. Margaret's Division, Guildhall, Westminster.
Hanover Square Division, Board Rooms, Mount Street, Grosvenor Square.
St. James's Division, Vestry Rooms, St. James's Church Yard.
Strand Division, Vestry Rooms, St. Martin-in-the-Fields.

19. Any ratepayer and any overseers of a parish, so far as respects the valuation list of such parish, and any surveyor of taxes, so far as respects the valuation list of any parish in Persons entitled to appeal to special sessions.

Sect. 19. the petty sessional division, may, if he or they feel aggrieved by any decision of the assessment committee on an objection made with respect to the unfairness or incorrectness of the valuation of any hereditament included in such list, but not otherwise, appeal against such decision to the special sessions. The right to appeal to special sessions shall not deprive a person of any other right of appeal conferred on him by this Act.

As to other rights of appeal, see sect. 32, p. 111, and sect. 40, p. 117, *post*.

By sect. 42 (9), *post*, p. 121, notices of appeal to special sessions shall be given on or before the 21st November in the same year.

By the Poor Rate Assessment and Collection Act, 1869, 32 & 33 Vict. c. 41, s. 13, every owner of any hereditament, for the rates of which he has become liable, shall have the same right of appeal (subject to the same conditions and consequences) against the valuation lists and the poor-rates as if he were the occupier thereof. See, however, sect. 70, *post*, p. 145.

Extent of jurisdiction of special sessions.

20. The justices in special sessions under this Act shall not hear any appeal touching any matter with respect to which notice of appeal to the general assessment sessions has been served in manner prescribed by this Act, and shall not hear any appeal touching any part or alter any part of the valuation list except the part relating to the value of an hereditament; and a decision of such justices and an alteration by them of the value of an hereditament in the valuation list of any parish shall affect only the rights of the ratepayers of such parish among themselves, and shall not of itself in any way alter the totals of the gross or rateable value of such list as settled by the assess-

ment committee, but may form a reason for an appeal against such totals to the assessment sessions and superior court as hereinafter mentioned. Sect. 20.

As to service of notice of appeal to the general assessment sessions, see sect. 33, *post*, p. 112; and the giving notice of such appeal, sect. 42 (12), *post*, p. 121.

An alteration by the justices of the value of an hereditament will not involve any other alteration in the valuation list; and the other ratepayers will only be affected thereby to the extent that their rates may be lessened or increased, according as the alteration made by the justices increases or lessens the value of the hereditament the subject of appeal.

The reasons for appeal to the assessment sessions are stated in sect. 32 (1), (2), (3), *post*, p. 111; and sect. 40, *post*, p. 117, provides for appeals to a superior court from decisions of assessment sessions on points of law.

21. The justices in special sessions under this Act may adjourn their court from time to time, as may be necessary for the performance of their duties under this Act. They shall have with respect to the attendance and examination of witnesses, the taking of evidence, the keeping order in court, the enforcing their orders, and all matters necessary for the execution of their duties under this Act, the same powers and jurisdiction as if they were assembled in petty sessions. Powers of special sessions.

As regards the powers and jurisdiction of justices in petty sessions, see 9 Geo. 4, c. 43. As to the appellant's recognizance, see sect. 27, *post*, p. 108, and sect. 28, *ibid*, as to fees to the clerk to the justices.

22. The justices in special sessions shall send a written notice of the time and place at which they will hold a special sessions for the purpose of hearing appeals with respect to any parish to Notice by special sessions of time of sitting.

Sect. 22. the overseers of such parish, who shall publish it as soon as it is received by them.

As to the service of notices, see sect. 65, *post;* and as to the publication of the notice in this section mentioned, see sect. 66, *post*, p. 143.

Appeals.—Assessment Sessions.

Court of general assessment sessions.

23. For the purpose of hearing appeals under this Act against any valuation list in the metropolis, the justices of the peace appointed as hereinafter mentioned shall at the time mentioned in this Act assemble and hold a court of general assessment sessions (in this Act referred to as the assessment sessions).

The grounds of appeal are set out sect. 32 (1), (2), (3), *post*, p. 111.

Appointment of members of general assessment sessions.

24. The justices who are to form the court of general assessment sessions shall be appointed annually as follows:

1. Three justices of the peace of the county of Middlesex (of whom the assistant judge of the court of the sessions of the peace of the said county shall be one) shall be appointed by the court of general quarter sessions or general sessions of the peace for the county of Middlesex:
2. Two justices of the peace of the county of Surrey shall be appointed by the court of general or quarter sessions of the peace for the county of Surrey:
3. Two justices of the peace of the county of Kent shall be appointed by the court of general sessions for the county of Kent:

4. Two justices of the peace of the city of London shall be appointed by the court of the mayor and aldermen of the city of London in the inner chamber.

The said justices shall be appointed in the month of October in every year, or at such other time as may be from time to time fixed by the appointing body. They shall hold office for twelve months, beginning on the first of November, and any casual vacancy may be filled up by the appointing body.

Officers of general assessment sessions.

25. The justices in assessment sessions may from time to time appoint, with the consent of the Poor Law Board, a clerk, and other persons to assist them in the performance of their duties under this Act, and may assign him or them such remuneration and such duties as the Poor Law Board may approve.

The Act is silent as to the clerk's tenure of office; but the power to appoint necessarily involves the power to remove an officer, unless such power is otherwise restricted. See sect. 50, *post*, p. 133, as to the expenses of the assessment sessions.

Chairman, quorum and powers of general assessment sessions.

26. The justices in assessment sessions may from time to time appoint one of their own number to act as their chairman, who shall have a second or casting vote, and they may from time to time determine on their quorum so that it be not less than three.

The court of general assessment sessions may adjourn from time to time, as may be necessary for the performance of their duties under this Act, and (for the purpose of giving judgment only) from place to place in the metropolis. They shall with respect to the attendance and

Sect. 26.

examination of witnesses, to the taking of evidence, to the keeping of order in court, to contempt of court, to the enforcement of their orders, and to all matters necessary for the execution of their duties under this Act, have the same jurisdiction and powers and be in the same position as a court of quarter sessions; and, subject to the express provisions of this Act, shall conduct their proceedings, be convened, and be in the same position, as near as may be, as if they were a court of quarter sessions.

As to the conduct of the proceedings of the court of quarter sessions, see third edition of Archbold's Quarter Sessions, by Mr. Lovesy, late one of Her Majesty's judges in Demerara, pp. 28, 38.

Orders as to proceedings and recognizances on appeals.

27. The justices in assessment sessions may, with the approval of one of Her Majesty's principal secretaries of state, make orders from time to time for the purpose of regulating the proceedings on appeals to them under this Act, and for determining the recognizances (if any) to be entered into by appellants in the case of appeals either to special sessions or to the assessment sessions.

Fees on appeal under Act.

28. The justices in assessment sessions may make a table of the fees which in their opinion should be paid to the clerks of special sessions and to the clerk of assessment sessions in the case of appeals under this Act, and shall lay such table before one of Her Majesty's principal secretaries of state in the same manner as the justices at quarter sessions may make and lay before such secretary of state a table of fees, and all the provisions of section thirty of

the Act of the session of the eleventh and twelfth years of Her Majesty's reign, chapter forty-three (which section relates to a table of fees and to the prohibition of clerks taking other fees), shall apply in the case of a table of fees made, and the business done by the said clerks under this Act. Sect. 28.

All fees paid in the case of appeals to the assessment sessions shall be paid to the account of the receiver of the Metropolitan Common Poor Fund, and shall be so paid and taken and accounted for in such manner as the Poor Law Board may from time to time by order prescribe.

The clerk of the special sessions to be held under sect. 18, *ante*, p. 103, will be the clerk to the justices acting for the petty sessional division. As regards sect. 30 of 11 & 12 Vict. c. 43, see the *Summary Jurisdiction Acts*, fourth edition, by Glen, p. 138.

As to the receiver of the metropolitan poor fund, see the Metropolitan Poor Act, 1867 (30 Vict. c. 6, s. 62), in *Glen's Metropolitan Poor Acts*.

The orders made by the general assessment sessions under sect. 27, and the table of fees under sect. 28, will be found in the Appendix, *post*.

Places for hearing appeals.

29. The justices in assessment sessions shall from time to time appoint the place in the metropolis where the appeals relating to each parish in the metropolis are to be heard, and may, if they think fit, divide the metropolis into districts for the purpose of appeals, and appoint one or more places for every such district.

See sect. 63, *post*, p. 141, as to the use of public rooms, such as vestry rooms or public board rooms for hearing appeals in.

Sect. 30.

Public notice of times of holding courts to be given.

30. The justices in assessment sessions shall cause public notice to be given of the several times at which they will sit at the several places appointed for the hearing of appeals; such notice may be given under the hand of their clerk, and shall be given by advertisement in some newspaper circulating generally in the metropolis, and by sending a copy of such notice to every surveyor of taxes in the metropolis, to every assessment committee which would have a right to appeal at such court, and to the overseers of every parish to which any appeal relates, and to all the parties to the appeal.

The overseers shall publish the notice as soon as it is received by them.

As to the times for hearing appeals, see sect. 42 (13), (14), *post*, p. 122, and sect. 66, *post*, p. 143, as to the publication of notices by overseers.

Summons of certain officers as witnesses.

31. The justices in assessment sessions may order any clerk to the commissioners of taxes, any surveyor of taxes, clerk of assessment committee, overseer, assistant overseer, or like officer in the metropolis to produce any documents relating to rates or taxes which such justices may consider necessary for determining an appeal, and do not relate to profits of trade or of concerns in the nature of trade.

Any person who refuses, after tender of a reasonable sum for his expenses, to obey any order under this section shall be liable (on summary conviction before the justices in assessment sessions or any other two justices) to a penalty not exceeding five pounds.

The words in this section, "like officer," will apply to a vestry clerk appointed under 13 & 14 Vict. c. 57. The

parishes in which such vestry clerks are appointed are enumerated, *ante*, p. 93. **Note to Sect. 31.**

Whether the proceeding for the recovery of the penalty for refusing to obey any order of the justices be before the justices in assessment sessions or any other two justices, there must be a previous summons, and the 11 & 12 Vict. c. 43, will apply in like manner as to proceedings in petty sessions.

Persons entitled to appeal to assessment sessions.

32. Any ratepayer and any surveyor of taxes, and any overseer, with the consent of the vestry of his parish, who may feel aggrieved by any decision of the assessment committee, on an objection made before them to which he was a party, or by any decision of special sessions, whether he was a party or not, may appeal against such decision to the assessments session.

Any assessment committee in the metropolis, or in the county in which the parish to which the appeal relates is situate, any overseers in the metropolis or such county, with the consent of the vestry of their parish, any ratepayer in the metropolis or such county, and any body of persons authorized by law to levy rates or require contributions payable out of rates in the metropolis or such county, may appeal to the assessment sessions, if they or he feel aggrieved by reason—

(1.) of the total of the gross value of any parish being too high or too low;

(2.) of the total of the rateable value of any parish being too high or too low; or

(3.) of there being no approved valuation list for some parish.

As to appeals by owners see 32 & 33 Vict. c. 41, s. 13, *ante*, p. 104, and sect. 70, *post*, p. 145.

The consent of the vestry has reference to the appeal

Note to Sect. 32.

of the overseer only. The vestry will, in each parish, be the vestry elected by the ratepayers under the Metropolis Local Management Act, 18 & 19 Vict. c. 120.

The Metropolitan Board of Works, the London School Board, the vestries in Schedule A. and the Boards of Works in Schedule B. of 18 & 19 Vict. c. 120, are bodies of persons authorized by law to require contributions payable out of rates in the metropolis. As to the bodies of persons authorized by law to levy rates, see the parishes enumerated, *ante*, p. 95.

Proceedings on Appeals.

Notice of appeal to special or assessment sessions.

33. Notice in writing of every appeal, whether to special sessions or the assessment sessions, specifying the correction which the appellant desires to have made in the valuation list, must be served, within the time in this Act mentioned, on the following persons; namely,

in all cases on the surveyor of taxes of the district to which the appeal relates, and on the clerk of the assessment committee which approved the list wholly or partly questioned by the appeal:

when the appeal relates to the unfairness or incorrectness of the valuation of, or to the omission of an hereditament occupied by any person other than the appellant, or to the incorrectness of any matter stated in the list with respect to any such hereditaments, then on such person:

if an assessment committee or a surveyor of taxes is the appellant, then also on the overseers of the parish to which the appeal relates:

Provided that it shall not be necessary to serve any notice of appeal on the surveyor of taxes in any case in which the appeal relates only to the rateable value of any hereditament.

The clerk of the assessment committee, on receiving notice of an appeal, shall forthwith serve notice thereof on the clerk of the special sessions or of the assessment sessions, as the case may require. Sect. 33.

See sect. 42 (9), (12), *post*, pp. 121, 122, as to the time for giving notice of appeal under this section.

Sessions to hear and determine appeals, and alter list accordingly.

34. The justices in special sessions and in assessment sessions respectively shall, in open court, hear and determine all appeals brought before them in such order as they may respectively from time to time appoint. They may adjourn the hearing from time to time, and to any day not later than the day before which all appeals to them are required by this Act to be heard; and in the case of assessment sessions for the purpose of obtaining the decision of any superior court to any day necessary for that purpose; and if from accident or mistake due notice of appeal has not been given, or if an additional notice of appeal appears to be required, they may, if they think it just, order notice of appeal to be given. They may confirm or alter the valuation list, so far as it is questioned by the appeal, in such manner as they think just, but shall not make any alteration in contravention of this Act. The clerk of the assessment committee, or some deputy allowed by the assessment committee, shall attend the court with the valuation list to which the appeal relates, and any alteration shall be made by the justice acting as chairman of the sessions in that list, and the said justice shall place his initials against such alteration.

As to the day before which all appeals are to be heard, see sect. 42 (10), (13), *post*, pp. 122, 123.

Note to Sect. 34.

As regards the clerk of the assessment committee, see 25 & 26 Vict. c. 103, s. 10. The "deputy" referred to will be some person specially deputed by the committee to attend the court.

Making of valuation list where none approved.

35. If it appears to the justices in assessment sessions on any appeal that there is no approved valuation list for some parish, they may appoint some proper person (with such remuneration as they may appoint) to make a valuation list. Such person shall have for that purpose the same powers and duties as overseers.

The valuation list so made shall be deposited and otherwise made known to the persons interested in such manner as the court may direct, but in manner as near as may be as is provided in this Act with respect to the list originally made.

The costs of making such valuation list shall be paid by the assessment committee who failed to approve the list, and shall be deemed part of their expenses under the principal Act.

As to the "powers and duties of overseers," see sect. 6 *et seq. ante*, p. 98.

As regards the deposit of valuation lists, see sect. 7, *ante*, p. 98, and the sections of 25 & 26 Vict. c. 103, therein mentioned. And as regards the expenses of the committee, see sect. 38 of the same Act.

Assessment sessions may, on application of party to appeal, order valuation.

36. If any of the parties to the appeal apply to the justices in assessment sessions to direct a valuation of any hereditament with respect to which any appeal may be made, and if such applicant or applicants give such security as the court think proper to pay the costs of the valuation, the court may, in their discretion,

appoint some proper person to make such valuation. Sect. 36.

See sect. 48, *post*, p. 132, and sect. 62, *post*, p. 141.

Adjournment to receive valuation list or valuation.

37. Where the court appoint a person to make a valuation list or a valuation, they may fix some subsequent day, either before or after the day before which all appeals are required by this Act to be heard, for receiving such valuation list or valuation, and may adjourn the hearing to that day.

As to the day before which appeals are to be heard, see sect. 42 (10), (13), *post*, pp. 121, 122.

Valuation to be in writing, person making it to have power to enter.

38. The person so appointed to make a valuation shall make his valuation in writing signed by him, showing the particulars of the hereditaments comprised therein, and the amounts at which he has valued the same respectively.

Such person may at all reasonable times, with or without assistants, enter upon any of the hereditaments directed to be valued, and may do thereon all acts necessary for completing the valuation.

Under the 6 & 7 Will. 4, c. 96, s. 4, *post*, the person or persons appointed for making a survey map or valuation, were empowered "together with their and every of their assistants and servants, at all reasonable times until the same respectively shall be completed, to enter, view, and examine, survey and admeasure all and every part of the messuages, lands, and other hereditaments, and to do or cause to be done, any act or thing necessary for making such survey, map, or plan and valuation." With regard to this, Mr. Lumley in his commentary on the Act, says, that if the surveyor enter without notice or special licence, he will not be a trespasser. But it is very doubtful whether he can force an entrance where

Note to Sect. 38. admission is refused and his entrance is resisted. The surveyor cannot be advised to attempt to do so. He must make his valuation as well as he can, and the occupier will have himself to blame if under such circumstances he shall consider his rate excessive, and be driven to an appeal.

Costs of appeal.

39. The costs of any appeal, including the costs of any such valuation as aforesaid, shall be in the discretion of the justices in special or assessment sessions (as the case may be), and shall be awarded by them to be paid by such parties to the appeal, and in such proportions, as they think just.

Costs (including the costs of making a valuation) so ordered to be paid may be recovered as if they had been awarded by a court of quarter sessions, and when ordered to be paid by parties other than a ratepayer shall be paid as in this Act mentioned.

By 12 & 13 Vict. c. 45, s. 18, the party entitled to costs upon producing a copy of the order under the hand of the clerk of the peace or his deputy, and proof of the refusal or neglect to obey the order may obtain from the Court of Queen's Bench or any judge thereof at chambers, in term or vacation, a writ of *certiorari* to remove it; and upon its removal the party may sue out a *fi. fa. elegit*, or *ca. sa.* upon it, in the same manner as upon a rule of one of the superior courts for the payment of money, *Reg.* v. *Huntley*, 23 L. J. M. C. 106; 3 E. & B. 172; 18 J. P. 520; or such costs may be recovered in the manner provided for the recovery of costs upon an appeal against an order of conviction by 11 & 12 Vict. c. 43, s. 27, that is to say, the sessions may order the costs to be paid to the clerk of the peace to be paid by him over to the party; and the latter, upon obtaining a certificate from the clerk of the peace, that the costs have not been paid to him, any justice or justices of the county will grant a distress warrant to levy them, and in default of payment may issue a warrant of commitment.

Sect. 40.

Appeal from decision of assessment sessions on points of law.

40. The same proceedings may be had by special case and *certiorari* or otherwise, for questioning any decision of the justices in assessment sessions, as may be had for questioning any decision of the justices in general or quarter sessions, provided that every such *certiorari* shall be sued out within three months after the decision is given.

At any time after notice given of appeal under this Act to the assessment sessions, it shall be lawful for the parties, by consent and by order of any judge of one of the superior courts of common law at Westminster, to state the facts of the case in the form of a special case for the opinion of any of those courts, and to agree that a judgment in conformity with the decision of that court, and for such costs as that court may adjudge, may be entered on the application of either party at the meeting of the justices in assessment sessions next or next but one after such decision has been given, and such judgment may be entered accordingly, and shall be of the same effect in all respects as if the same had been given by the assessment sessions upon an appeal duly brought before them and adjourned; and the justices shall, if necessary, hold a sessions or an adjourned sessions for this purpose.

Notice in writing of the decision of any superior court in pursuance of this section shall be served by the clerk of the assessment sessions on the assessment committee which approved the list questioned on the appeal to such court.

As to special case, see 12 & 13 Vict. c. 45, s. 11, and as to the mode of stating it, see *Archbold's Quarter Ses-*

Note to Sect. 40.

sions, 3rd edit. by Lovesy, p. 60. As regards the writ of *certiorari*, see also the same work, p. 45. Observe, however, the limited time within which the writ of *certiorari* must be sued out.

Notice of alteration of list to be sent to overseers.

41. Notice of every alteration in the valuation list, which alteration is made in consequence of any decision on any appeal to the special sessions, assessment sessions, or a superior court, shall, as soon as possible, be sent in writing by the clerk of the assessment committee to the overseers and surveyor of taxes of the parish and district respectively to which the list which is so altered relates, and such alteration shall be entered by the clerk of the assessment committee and by the overseers on the duplicates respectively deposited with them.

Notice of every alteration in the total of the gross and rateable value of any valuation list, which alteration is made in consequence of any decision on any appeal to the assessment sessions or a superior court, shall as soon as possible be sent in writing by the clerk of the assessment committee to the clerk of the managers of the Metropolitan Asylum District, and the clerk of such managers shall send in writing such altered total to every person and body of persons who has power to levy or make any rate or assessment or require any contribution based on such total.

As to the bodies of persons mentioned in this section, see note to sect. 32, *ante*, p. 111.

Times for Proceedings.

Times within which proceedings in making

42. With respect to the times within which proceedings under this Act and the Acts incor-

porated herewith are to be done, the following provisions shall have effect; that is to say,

Sect. 42.
valuation list are to be done.

Where public convenience requires it a statute as to time is to be construed as directory. *Lefeuvre* v. *Miller*, 26 L. J. M. C. 175; *Reg.* v. *Fordham*, 11 Ad. & E. 73; *Reg.* v. *Rochester*, 7 E. & B. 910.

The dates in 32 & 33 Vict. c. 67, s. 42 are directory and not imperative, and the Acts directed may be validly done at later dates. The court held that upon the true construction of the Act, and keeping in view its object, which was to have one uniform list every five years, it would be impossible to assume that the legislature intended that non-compliance with the provisions of sect. 42 should defeat the valuation list. The court would express no opinion, but it might be that an action would lie against the Assessment Committee, if, through an intentional act on their part, the right to appeal was destroyed by time. *Reg.* v. *Ingall*, 41 J. P. 181 46 L. J. M. C. 113; 35 L. T. (N.S.) 552.

(1.) The overseers shall make and deposit the valuation list before the first of June in the first year after the passing of this Act:

See sects. 6, 7, *ante*, p. 98; and 25 & 26 Vict. c. 103, s. 17, *ante*, p. 23.

(2.) The overseers shall transmit the valuation list to the assessment committee not sooner than fourteen and not later than seventeen days after notice is given of the deposit of such list:

As to the notice of deposit of valuation list, see sect. 7, *ante*, p. 98, and 25 & 26 Vict. c. 103, s. 17, *ante*, p. 23.

(3.) Notice of any objection by any person other than the surveyor of taxes and the overseers shall be given before the

Sect. 42.

expiration of twenty-five days after the list is deposited :

See sect. 7, *ante*, p. 98; and 25 & 26 Vict. c. 103, s. 18, *ante*, p. 25.

(4.) The assessment committee shall revise the valuation list before the first of October in the same year, and before the same day, but not less than sixteen days after the transmission of the list to them by the overseers, shall hold a meeting for hearing objections to such list :

See sect. 7, *ante*, p. 98 ; and 25 & 26 Vict. c. 103, s. 19, *ante*, p. 26.

(5.) The Assessment Committee shall give notice of a meeting for hearing objections to a list not less than sixteen days before such meeting :

See sect. 7, *ante*, p. 98, and 25 & 26 Vict. c. 103, s. 19, *ante*, p. 26.

(6.) Notice of objection with respect to any list by the surveyor of taxes and by the overseers shall be given not less than seven days before the meeting at which objections to such list will be heard by the Assessment Committee :

See sects. 7, 12, *ante*, pp. 98, 100, and 25 & 26 Vict c. 103, ss. 18, 19, *ante*, pp. 25, 26.

(7.) The Assessment Committee shall send the valuation list to be re-deposited within three days after it is approved by them, and shall appoint a day not less than fourteen nor more than

twenty-eight days after such re-deposit for hearing objections to the alterations, of which objections seven days' notice shall be given by the objector:

See sect. 7, *ante*, p. 98; and 25 & 26 Vict. c. 103, s. 21, *ante*, p. 32.

(8.) The Assessment Committee shall finally approve and send the valuation list to the overseers, and the clerk of the managers of the metropolitan asylum district, before the first of November in the same year:

See sect. 14, *ante*, p. 101.

(9.) Notices of appeal to special sessions shall be given on or before the twenty-first of November in the same year:

See sect. 33, *ante* p. 112.

(10.) The justices may hold the special sessions at any time after the thirtieth of November in the same year, which will enable them to determine all appeals before the ensuing first of January:

See sect. 18, *ante*, p. 103.

(11.) The clerk of the said managers shall send out the printed totals before the first of December in the same year, and shall return the valuation list to the Assessment Committee not sooner than fourteen nor later than twenty-one days after the totals are sent out:

See sects. 16, 17, *ante*, p. 102.

Sect. 42.

(12.) Notices of appeals to assessment sessions shall be given on or before the fourteenth of January in the same year:

See sect. 33, *ante*, p. 112.

(13.) The justices may hold the assessment sessions at any time after the first of February in the same year, which will enable them to determine all appeals (except where a valuation list or valuation is ordered) before the ensuing thirty-first of March:

See sect. 30, *ante*, p. 110.

(14.) Notice of the times at which the assessment sessions will be held at each place shall be given by the clerk ten days at least before the first court is held:

See sect. 30, *ante*, p. 110.

Effect of Valuation List.

Duration of valuation list.

43. The valuation list as approved by the Assessment Committee, and if altered on any appeal under this Act to any sessions or a superior court, as so altered, shall come into force at the beginning of the year (commencing on the sixth of April) succeeding that in which it is made, and shall last for five years, subject to any alterations that may be made by any supplemental or provisional list as hereinafter mentioned.

Sections 46 and 47, *post*, pp. 126, 128, provide for the revision of the valuation lists.

Further, with reference to this section and sections 46 and 47, see 38 & 39 Vict. c. 33, ss. 2, 3, and 4, *post*, pp. 160, 161.

Sect. 44.

Rate to be levied notwithstanding appeal.

44. Notwithstanding any appeal under this Act which may be pending at the commencement of the year, the valuation list shall come into force unaltered, and every assessment, contribution, rate, and tax in respect of which the valuation list is conclusive shall be made, required, levied, and paid in accordance with such valuation list; and where in consequence of the decision of any appeal under this Act to assessment sessions or a superior court an alteration in such valuation list is made which alters the amount of the assessment, contribution, rate, or tax levied thereunder, the difference, if too much has been paid, shall be repaid or allowed, and if too little, shall be deemed to be arrears of the assessment, contribution, rate, or tax (except so far as any penalty is incurred on account of arrears), and shall be paid and recovered accordingly.

The purposes for which the valuation list shall be conclusive are in s. 45, *infra*. As to appeals to the assessment sessions, see s. 34, *ante*, p. 113; and to a superior court, s. 40, *ante*, p. 117.

Valuation lists to be conclusive for purposes of certain rates, taxes, and qualifications.

45. The valuation list for the time being in force shall be deemed to have been duly made in accordance with this Act and the Acts incorporated herewith, and shall for all or any of the purposes in this section mentioned be conclusive evidence of the gross value and of the rateable value of the several hereditaments included therein, and of the fact that all hereditaments required to be inserted therein have been so inserted; that is to say,

(1.) For the purpose of any of the following rates which are made during the year that the list is in force, namely the county rate, the metropolitan police

Sect. 45.

rate, the church rate, the highway rate, the poor rate, the police, sewers, consolidated and other rates in the city of London, the sewers, lighting, general, and other rates levied by order of district boards or vestries, the main drainage improvement and other rates, and sums assessed on any part of the metropolis by the Metropolitan Board of Works, assessments for contributions under the Metropolitan Poor Act, 1867, and every other rate, assessment, and contribution levied, made, and required in the metropolis on the basis of value:

As regards the county rate, see 15 & 16 Vict. c. 81, s. 26, and the metropolitan police rate, 10 Geo. 4, c. 44, ss. 23 and 25. Compulsory church rates are abolished by 31 & 32 Vict. c. 109, except where money is due on the security of such rates; all expenses which ought in the metropolis to be defrayed by highway rates, by 18 & 19 Vict. c. 120, s. 96, shall be defrayed by means of the rates to be raised under that Act.

As regards contributions under the Metropolitan Poor Act, 1867, see s. 64, *et seq.*, of that Act.

(2.) For the purpose of any of the following taxes which become chargeable during the year that the list is in force; namely,

14 & 15 Vict. c. 36, &c.

(*a*) The tax on houses levied under the House Tax Act and the Acts therein incorporated or referred to:

5 & 6 Vict. c. 35, &c.

(*b*.) Any tax assessed in pursuance of the Income Tax Act, and any Acts continuing or amending the same, on any lands, tenements, and hereditaments, in all cases where

the tax is charged on the gross value and not on profits : Sect. 45.

(3.) For the purpose of determining, so far as it is applicable, the value of any hereditament included therein for the purposes of the Acts relating to the sale of exciseable liquors, to the qualification of a juror, to the qualification of a vestryman, and an auditor of accounts under the Metropolis Management Act, 1855, and to the qualification of a guardian, and of a manager under the "Poor Law Amendment Act, 1834," or the "Metropolitan Poor Act, 1867," at any time at which such value is required to be ascertained :

This sub-section will apply to the qualification of a manager of a district school under 7 & 8 Vict. c. 101, s. 42, as that Act is one with "the Poor Law Amendment Act, 1834."

And in construing the Metropolitan Police Act and the Acts amending the same, the last valuation for the time being acted upon in assessing the county rate shall be deemed to mean the valuation list for the time being in force : 10 Geo. 4, c. 44.

And in construing the County Rate Act and Acts referring to the valuation, estimate, basis, or standard for the county rate, the valuation, estimate, basis, or standard shall be deemed to be the rateable value stated in such list : 15 & 16 Vict. c. 81, &c.

And in construing the House Tax Act and the Acts therein incorporated or referred to the full and just yearly rent shall be deemed to be the gross value stated in such list : 14 & 15 Vict. c. 36, &c.

Sect. 45. 5 & 6 Vict. c. 35, &c.

And in construing the Income Tax Act and any Acts continuing or amending that Act, with respect to Schedules A. and B. thereof, annual value shall be deemed to mean the gross value stated in such list.

Revision of Valuation List.

Mode of revising valuation list.

46. Every valuation list shall be revised in manner directed by this Act, and such revision in every period of five years (the first of such periods beginning with the sixth of April one thousand eight hundred and seventy-one) shall be conducted as follows:

(1.) In each of the first four years of such period a supplemental list shall, if necessary, be made out in the same form as the valuation list, and shall show all the alterations which have taken place during the preceding twelve months in any of the matters stated in the valuation list, but shall contain only the hereditaments affected by such alterations. If no alteration has taken place which makes a supplemental list necessary, the overseers shall send a certificate to that effect to the assessment committee in place of such list, which certificate may be in the form contained in the second schedule to this Act:

In answer to a question with reference to this subsection, "Whether where there is no apparent cause for the alteration of the gross or rateable values inserted in the original valuation list of the parish of any hereditament inserted therein other than that it has been ascertained that it has been over valued or under valued in such list, or the rent of such hereditaments has been reduced or increased since the final approval of such list,

Note to Sect. 46.

the overseers can legally decrease or increase the gross and rateable values respectively, or either of such values, by a supplemental or provisional list under the 46th or 47th sections of the Valuation (Metropolis) Act, 1869?" an eminent counsel has advised as follows:—

"A mistake as to the value in the original valuation list cannot be cured by a supplemental or provisional list. But if, since the original list was made, in the course of any year the value of a house is increased or reduced, the gross and rateable value may be increased or reduced under the 47th section. I think this clause is not confined to structural alterations, and that if a house is increased in value by the making of a street in the pulling down of houses, or other like cause, the section applies. So it seems to me that if a house is reduced in value by the building of an erection which takes away the light and air the section applies. The mere fact of the rent being increased or reduced would not be 'a cause' within the meaning of the section. The overseers should not increase or reduce the rating unless there is a real apparent cause which has increased or reduced in value the property within the year. I think that if the value of a house is substantially increased by the letting within the year of a number of houses in the immediate neighbourhood the 47th section would apply."

Where under the Act the mains and pipes of a waterworks company have been inserted in the quinquennial valuation list, a supplemental valuation list under ss. 46, 47 may be made during such period of five years, so as to include an increase in the value of the same mains by reason of their having been connected with newly-built houses since the date of the last valuation. *Reg.* v. *New River Company*, L. R. 4, Q. B. D. 309; 48 L. J. M. C. 123.

(2.) In the fifth year of every such period the overseers shall make a new valuation list:

(3.) The same regulations shall be observed and the same proceedings shall be had in the case of a supplemental list and a new valuation list as are directed by this Act and the Acts incorporated herewith in the case of the valuation

Sect. 46.

list made in the first year after the passing of this Act:

See sects. 6 and 7, *ante*, p. 98, and the notes thereunto.

(4.) A supplemental list and a new valuation list shall come into force at the beginning of the year succeeding that in which they are respectively made, in the same manner and subject to the same conditions as the valuation list made in the first year after the passing of this Act:

See sect. 43, *ante*, p. 122, with reference to this subsection.

(5.) In each of the last four years of such period the valuation list which was in force on the day before the commencement of each such year, together with and as altered by the supplemental list, if any, which comes into force at the commencement of such year, shall be the valuation list which is in force during that year:

(6.) A new valuation list when it comes into force shall supersede the valuation list which was in force during the fifth year of such period:

Provision for valuing a house built between the times at which the valuation list is made.

47. If in the course of any year the value of any hereditament is increased by the addition thereto or erection thereon of any building, or is from any cause increased or reduced in value, the following provisions shall have effect:

(1.) The overseers of the parish in which such hereditament is situate may, and on the written requisition of the assessment committee or of any rate-payer of the union or of the surveyor

of taxes for the district shall, send to the assessment committee a provisional list containing the gross and rateable value as so increased or reduced of such hereditament: Sect. 47.

(2.) A copy of the requisition shall be sent by the person making it to the clerk of the assessment committee, and if within fourteen days after the requisition has been served on the overseers they make default in sending such provisional list he shall forthwith summon the assessment committee, and the assessment committee shall appoint a person to make such provisional list in the same manner as is in this Act provided in the case of the overseers failing to transmit a valuation list:

See sect 13, *ante*, p. 100.

(3.) On the receipt of the list the clerk of the assessment committee shall serve on the surveyor of taxes for the district a copy of the list, and shall serve on the occupier of any hereditament to which the list relates a copy of so much thereof as relates to that hereditament. Every copy shall be accompanied by a notice specifying a day, being not less than fourteen days after the date of the service of the notice on or before which any objection to the provisional list may be made, and stating the mode in which an objection is to be made. Such copy and notice shall be served in the

Sect. 47.

same way as notices by an assessment committee are served:

See sect. 65, *post*, p. 142.

(4.) An objection may be made to any such provisional list by the said occupier, and by the surveyor of taxes, or by either of them, by notice thereof in writing being served on the clerk of the assessment committee, on the overseers, on the surveyor of taxes, and on the occupier, or on such of them as the case may require:

(5.) The clerk of the assessment committee, on the receipt of the notice of any objection, shall forthwith summon a meeting of the committee, and give notice of the time and place of such meeting to the overseers, to the surveyor of taxes, and the occupier:

(6.) The committee shall hear and determine on the objection in the same manner as if it were an objection to a valuation list, and may make such order as they think just:

See section 11, *ante*, p. 99, and 25 & 26 Vict. c. 103, s. 18, *ante*, p. 25.

(7.) If no objection is made, then on the expiration of the time for making objections, or if an objection is made then as soon as the assessment committee have determined on the objection, the assessment committee shall cause a copy to be made of the provisional list, with any alteration made in it by the committee, and shall

return the list, and the copy thereof, after being dated and signed by their clerk, to the overseers:

(8.) A provisional list, signed as aforesaid, shall have operation from the date of the service by the clerk of the assessment committee of a copy of the list and notice on the occupier, and shall continue in force until the first list (supplemental or other) which is subsequently made comes into force:

(9.) Upon a provisional list coming into operation the overseers shall make such entries in the rate book for the then current poor rate as will bring the same into conformity with such list, and shall also enter therein the date at which such list is to come into operation, and shall charge the occupier of such hereditament with a proper proportion of such current poor rate, regard being had to the time which has elapsed between the making of such rate and the said date and to the rateable value stated in such provisional list, and such occupier shall be considered as actually rated for such sum from the same date, and be liable to pay the same, and the same may be enforced accordingly:

(10.) A provisional list during the time that it is in force shall be deemed to form part of the valuation list for the time being in force, and shall (so far as is necessary) be substituted for so much

Sect. 47.

of that valuation list as relates to the same hereditament, and every rate and tax in respect of which the valuation list is conclusive, which are respectively made or charged after the provisional list comes into force, and the proportion of the current rate charged as before provided in this section, shall be levied accordingly; but if when the next revision of the valuation list takes place the list as approved and altered on appeal contains a smaller value for the hereditament comprised in a provisional list than the value stated in such provisional list, the amount of rate or tax which has been overpaid in consequence of the larger value having been stated shall be repaid or allowed:

(11.) Nothing in this section shall affect the value on which any rate is made or sum is assessed or contribution required which is made, assessed, or required on the totals of the gross or rateable value of parishes or unions.

This last sub-section has reference to contributions to the common fund of unions, the Metropolitan Poor Fund, the London School Board Fund, and the county rate, which are assessed on the total rateable values of the respective unions or parishes.

Expenses.

Costs of appeal, &c.

48. The costs of an appeal awarded against or incurred by any assessment committee or overseers shall be deemed to be expenses incurred under this Act and the Acts incorporated

herewith, and shall be raised and paid accordingly. Sect. 48.

Any costs or expenses awarded against or incurred by any surveyor of taxes shall be defrayed in the same manner as expenses are directed to be defrayed by the Acts relating to the taxes in respect of which the valuation list is made conclusive.

See 25 & 26 Vict. c. 103, s. 38, *ante*, p. 60; also sect. 62, *post*, p. 141.

Inland revenue may make allowances for expenses of Act.

49. The commissioners of inland revenue may make such allowances as they think fit for remunerating any person employed by them in the execution of this Act, and for the discharge of any costs or expenses incurred by him.

Expenses.

50. The expenses of the assessment sessions and such remuneration as the Poor Law Board may from time to time allow to the clerk of the managers of the metropolitan asylum district, the clerk of the assessment sessions, and persons appointed to assist the assessment sessions as provided by this Act, and such costs and expenses incurred by such clerks and persons under this Act as the Poor Law Board may allow, after such audit as the Poor Law Board may direct, shall be paid by the receiver of the Metropolitan Common Poor Fund out of any monies for the time being in his hands, and shall be paid at such times and in such manner and upon such precept of the Poor Law Board as the Poor Law Board may from time to time prescribe, and the Poor Law Board, may require contributions for the purpose of raising such remuneration, expenses, and costs.

Rules for formation of Valuation List.

Sect. 51.

Form and contents of valuation list.

51. The valuation list shall be made out in the form given in the second schedule to this Act.

The overseers shall not include in such valuation list any hereditaments (except tithes or payment in lieu of tithes) which are charged according to rule two in section sixty of the Income Tax Act, but shall include tithes and payments in lieu of tithes and every hereditament in their parish, and shall enter every hereditament in the valuation list in accordance with the classes mentioned in the third schedule to this Act, so that the deductions to be made in ascertaining the rateable value may be calculated in accordance with that schedule.

5 & 6 Vict. c. 55.

The following is Rule 2, in 5 & 6 Vict. c. 35, s. 60:—

Manner of charging certain properties, &c.

The annual value of all the properties hereinafter described shall be understood to be the full amount for one year, or the average amount for one year of the profits received therefrom within the respective times herein limited:

Ecclesiastical dues.

Second.—Of all dues and money payments in right of the church or by endowment, or in lieu of tithes (not being tithes arising from lands), and of all teinds in Scotland, on the like average:

Manors

Fourth.—Of manors or other royalties, including all dues and other services, or other casual profits, (not being rents or other annual payments reserved or charged,) on an average of the seven preceding years, to be charged on the lord of such manor or royalty, or person renting the same:

Fines.

Fifth.—Of all fines received in consideration of any demise of land or tenements (not being parcel of a manor or royalty demisable by the custom thereof) on the amount so received within the year preceding by or on account of the party; provided that in case the party chargeable shall prove, to the satisfaction of the commissioners for general purposes in the district, that such fines, or any part thereof, have been applied as productive capital, on which a profit has arisen or will

arise otherwise chargeable under this Act, for the year in which the assessment shall be made, it shall be lawful for the said commissioners to discharge the amount so applied from the profits liable to assessment under this rule : Note to Sect. 51.

Sixth.—Of all other profits arising from lands, tenements, hereditaments, or heritages not in the actual possession or occupation of the party to be charged, and not before enumerated, on a fair and just average of such number of years as the said commissioners shall, on the statement of the party to be charged, judge proper, (except such profits as may be liable to deduction in pursuance of the Ninth or Tenth Rule in No. 4, hereinafter mentioned,) to be charged on the receivers of such profits, or the persons entitled thereto. Other profits from lands.

Note that paragraphs 1 and 3 of Rule No. 2, were repealed by section 77, schedule 5, *post*.

52. The per centage or rate of deductions to be made from the gross value in calculating the rateable value for the purposes of this Act shall not exceed the amounts in the third schedule to this Act, so far as the same are applicable. Deductions for rateable value.

53. When a surveyor of taxes gives notice of objection or of appeal, the amount specified in the notice as being in his judgment the gross value of any hereditament referred to in the notice shall be inserted in the valuation list by the assessment committee, special sessions, or assessment sessions, unless it is proved to the satisfaction of the assessment committee, special sessions, or assessment sessions, that such amount ought not to be so inserted. Amount of gross value specified by the surveyor of taxes to be inserted, unless disproved.

54. Nothing contained in this Act or the Acts incorporated herewith shall affect any exemption or deduction from or allowance out of any rate or tax whatever, or any privilege of or provision for being rated or taxed on any exceptional principle of valuation. Saving of exemptions and exceptional principles of valuation.

Returns.

Sect. 55.

Occupier to make returns.

55. In the first year after the passing of this Act, and in every subsequent year in which a new valuation list is made, or in the month of March preceding any such year, every person who is liable to be charged with any rate or tax in respect of which the valuation list is made conclusive shall, when required, make to the overseers of his parish such statement or return as a person chargeable under the Income Tax Act and Acts amending the same is bound to make.

In the statement (No. 9), to be returned by every occupier of a messuage or tenement only, under Schedule A. of the Income Tax Act, are to be given,—1. Name, residence, and occupation of owner or landlord. 2. Whether held under lease or agreement made within seven years, or how otherwise held. 3. Amount of rent. 4. Annual value. 5. Amount at which rated to the poor. 6. Amount of land tax not redeemed, and the No. of the house, street, and parish.

The purposes for which the valuation lists shall be conclusive are in sect. 45 *ante*, p. 123.

Surveyor of taxes to supply notices and forms for returns to overseers, who are to serve them.

56. For the purpose of securing the proper making of such returns, the surveyor of taxes shall in the month of February preceding send to the overseers of each parish in his district a sufficient number of printed forms and notices, and the overseers, within a month after the receipt thereof, shall serve a notice and form on every person in their parish required by this Act to make a return; and every person required by this Act to make a return shall make it within twenty-one days after the service of a notice and form on him.

The forms and notices shall be such as are prescribed by the Income Tax Act or the Acts amending the same, or as the commissioners of

Her Majesty's treasury may from time to time prescribe, and any such form duly filled up and signed shall be deemed to be a sufficient return. Sect. 56.

The return shall be delivered to the overseers of each parish, and together with the valuation list shall be sent by them to the surveyor of taxes, and by the surveyor of taxes to the assessment committee.

Assessment committee may require returns from owner and occupier.

57. An assessment committee may, by order, require any person who is the owner or occupier or reputed owner or occupier of any hereditament in their union to send them a return in writing of all or any of the following things; viz., of the rent receivable or payable by him (as the case may be) for such hereditament, and of the person entitled to any tithe rentcharge charged on such hereditament, and of the amount of the same, and of the several persons by whom any tithe rentcharge is paid to him, and of the amounts paid by each such person, and of any other particulars respecting such hereditament as are required for the due execution of this Act and the Acts incorporated herewith. And every such owner or occupier shall obey such order within fourteen days after the service thereof on him.

Penalty for no or false returns.

58. If any person wilfully refuses or neglects to make any return lawfully required under this Act within the times respectively limited by this Act in that behalf, he shall be liable, on summary conviction, to a penalty not exceeding five pounds.

If any person wilfully makes or causes to be made a false return, he shall be liable, on summary conviction, to a penalty not exceeding ten pounds.

The 11 & 12 Vict c. 43, regulates proceedings with

Note to Sect. 58.

regard to summary convictions, see the *Summary Jurisdiction Acts*, 4th edition, by Glen.

By the Income Tax Assessment Act, 1870, 33 Vict. c. 4, s. 2, the returns and statements made under the Valuation (Metropolis) Act, 1869, shall be deemed to be, and shall be taken as returns and statements for the assessment of the duties under Schedules A. and B. of the Income Tax Act.

Miscellaneous.

Provision for cases where no guardians and where no overseers.

59. With respect to any parish which is not included in any union of parishes, and in which there is no board of guardians, the following provisions shall have effect:

As to such parishes, see *ante*, p. 91.

(1.) The assessment committee of the adjoining union shall act as the assessment committee of that parish, and where there is more than one such adjoining union the Poor Law Board shall determine the assessment committee which is to act for such parish:

(2.) Every such parish shall, for the purposes of this Act and the Acts incorporated herewith, but not for any other purpose be deemed to be within the union of the assessment committee which acts for it:

(3.) The masters of the bench, treasurer, governors, or other body of persons in such parish, may, at the time appointed for the election of an assessment committee, appoint a person to be a member of such assessment committee in addition to the number elected under this Act and the Acts incorporated herewith:

(4.) Where there are no overseers the assess-

ment committee shall appoint some person to perform the duties of the overseers under this Act and the Acts incorporated herewith, and may award him such remuneration as they think fit; and the person so appointed shall perform those duties, and shall, for that purpose, have all the powers of overseers: Sect. 59.

(5.) A proportionate share of the expenses of the assessment committee under this Act and the Acts incorporated herewith, and any remuneration paid to or expenses incurred by the person appointed by them under this or any other section to make a valuation list, shall be charged on such parish, and the sums so charged shall be paid by the masters of the bench, treasurer, governor, or other body of persons; and sections sixty-six, sixty-seven, and sixty-eight of the Metropolitan Poor Act, 1867, shall apply to such sums in the same manner as if the assessment committee and their clerk were the Poor Law Board and the receiver mentioned in those sections.

The following are the sections of the Metropolitan Poor Act, 1867 (30 Vict. c. 6), above referred to:—

Collection of contributions by local authority where no poor rate.

66. In order to obtain payment of the amount of the contribution to the Common Poor Fund payable in respect of any place where there is no poor rate, the Poor Law Board shall from time to time issue to the masters of the bench, treasurer, governors, or other body or persons having the chief control or authority there, a precept requiring them or him to pay the amount of contribution therein specified, in the manner and within the time therein prescribed, and they or he shall pay the same accordingly.

Note to Sect. 59.

(As to this section, see 39 & 40 Vict. c. 61, s. 43, relating to the removal of the exemption of the Inns of Court and Charterhouse.)

Levying of local rate by authority.

67. In every such place the masters of the bench, treasurer, governors, or other body or persons, may levy on the several persons occupying rateable property therein the amount of contribution so paid by them or him by means of a rate in the nature of a poor rate, and for that purpose may employ and remunerate collectors, and shall have the like powers as are for the time being vested in overseers for the purposes of the making, assessing, levying, and collecting of poor rate.

Remedies for recovery of contributions.

68. If any contribution to the Common Poor Fund required by the Poor Law Board to be paid by any guardians, masters of the bench, treasurer, governors, or other body or persons, is not duly paid, the receiver shall (in addition to any other remedy which any person has for the time being against guardians) have the like remedy for recovery from them or him, in the Receiver's own name, of the contribution, or of so much thereof as is not paid, as guardians have for the time being for recovery from overseers of contributions of parishes; and for that purpose the precept of the Poor Law Board requiring the contribution shall be conclusive evidence of the amount thereof, and of the liability thereto of the party sued.

Provision where vestry are the overseers.

60. Where the vestry or the guardians of any parish perform the duties of overseers with respect to a valuation list under this Act the list shall be signed by the vestry clerk or the clerk of the guardians.

See sect. 5 and notes thereon, *ante*, p. 95.

Guardians may appoint a paid valuer to assist the assessment committee.

61. The guardians may, upon the application of the assessment committee, after notice sent in the manner required by the principal Act, appoint some competent person to assist the committee in the valuation of the hereditaments in the union for such period as they see fit, at a salary or settled remuneration, to be paid out of the common fund.

The notice under this section will be sent as required by 25 & 26 Vict. c. 103, s. 16, *ante*, p. 21.

Sect. 62.

Assessment committee and overseers may give security for costs of valuation.

62. Every assessment committee, with the consent of the guardians, and every overseer, with the consent of the vestry of his parish, may, for the purposes of any application for a valuation on any appeal, give security for paying the costs of such valuation. An assessment committee may give such security and may appear on any appeal by their clerk, and shall indemnify the said clerk against all monies, losses, and costs paid or incurred by him in consequence of such security or appearance.

The Act omits to say in what way the security or indemnity is to be given by the assessment committee or overseers. The former have no funds at their disposal, out of which they can pay costs or expenses. See, however, the provision in sect. 48, *ante*, p. 132, as to costs of appeals, &c.; and also sect. 36, *ante*, p. 114.

Use of public room for appeals, &c.

63. Any room maintained out of the proceeds of any rate levied wholly or partly in the metropolis may (with the consent of the person or body corporate having the control of it) be used for hearing appeals, and for other purposes of this Act.

This section will apply to board rooms of boards of guardians, vestries, and district board of works, and to vestry rooms provided under 13 & 14 Vict. c. 57, in the following parishes:—

Plumstead.
St. John, Wapping.
St. Leonard, Bromley (Middlesex).
St. Mary Abbott's, Kensington.
St. Mary, Lambeth.
Wandsworth.

Under 24 & 25 Vict. c. 125, overseers' offices have been provided in the following parishes or places in the metropolis:—

Fulham.
Penge.
Plumstead.
St. Mary Magdalen, Battersea.

Sect. 64.

Evidence of valuation list, &c.

64. A valuation list may be proved by the production of a duplicate or copy of such list purporting to be certified to be a duplicate or a true copy by the clerk of the assessment committee that approved it, and such certificate shall state that the alterations (if any) made in the list in consequence of the decision on any appeal under this Act have been correctly made in the duplicate or copy so produced, and the clerk on application shall furnish a copy to any overseers on payment of a sum not exceeding the rate of three shillings for every hundred entries numbered separately. A provisional list may be proved by the production of a duplicate or copy thereof purporting to be certified to be a true copy by the clerk of the committee who signed it.

Each entry must be understood to refer to the entire entry of each hereditament, and not to each distinct entry relating to the same hereditament. The clerk will be entitled to retain the payment made to him by the overseers as remuneration to him for his services. As to provisional lists, see sect. 47, *ante*, p. 128.

Service of notices, &c., by post, &c.

65. All orders and notices under this Act and the Acts incorporated herewith shall be in writing or print, or partly in writing and partly in print, and if made or given by an assessment committee shall be sufficiently authenticated if signed by their clerk; and all orders, notices, and documents required by the same Acts to be served on or sent to any person or body of persons corporate or unincorporate may be either delivered to such person or the clerk of such body, or left at the usual place of abode of such person or clerk, or at the office of such clerk or body, or (if such abode or office cannot

on reasonable inquiry be discovered) at the premises to which the order, notice, or document relates. Sect. 65.

They may also be served and sent by post, by a prepaid letter, addressed to such person, or to the office of such body or to their clerk, and, if sent by post, shall be deemed to have been served and received respectively at the time when the letter containing the same would be delivered in the ordinary course of post, and in proving such service or sending it shall be sufficient to prove that the letter containing the notice was properly addressed and prepaid and put into the post.

Care should be taken when notices are sent by post that the posting of them can be proved in conformity with this section. A list of the notices should be made and signed and dated by the person who posts them.

Publication of notices by overseers.

66. Any notice required by this Act to be published by the overseers shall, on the Sunday next following the receipt of such notice, or the document to which the notice refers, and the two following Sundays, be published by them in the manner in which notice of a rate allowed by justices is required to be published.

A poor rate is published by affixing a notice thereof previously to divine service on or near to the doors of all the churches and chapels within the parish. 17 Geo. 2, c. 3, s. 1; 1 Vict. c. 45, s. 2, in *Glen's Poor Law Statutes*, Vols. 1 and 2.

Inspection, &c., of documents deposited with rate books.

67. Where any documents are required by this Act to be deposited in the same place in a parish in which rate books are kept, every ratepayer shall be at liberty to inspect and take copies of or extracts from such documents at any reasonable time, without fee or charge.

Sect. 68.

Valuation lists to be equivalent to rate books of parish.

68. The duplicate of the valuation list, approved by the assessment committee, and sent to the overseers, as directed by this Act, the notices of alterations made on any appeal under this Act, and any provisional list, shall for all purposes be deemed to be part of the rate books of the parish, and shall be produced by the overseers before the justices upon any application for allowance of rates, and on any appeal under this or any other Act, and on any other occasion if so required, on which they are bound to produce such rate books, and any overseer who fails to produce such list in accordance with the provisions of this section shall be liable on summary conviction to a penalty not exceeding five pounds.

The duplicate of the valuation list returned to the assessment committee by the clerk of the managers of the Metropolitan Asylum District, and other documents in the possession of the assessment committee in pursuance of this Act, shall be kept at the board room or other convenient place from time to time appointed by the guardians of the same union, but shall be deemed to be in the possession of the assessment committee, and shall be produced by their clerk to the district auditor whenever required by him.

See sect. 14, *ante*, p. 101, for the direction as to sending the list to the overseers; sect. 41, *ante*, p. 118, as to notice of alterations on appeals; sect. 47, *ante*, p. 128, as to provisional lists; and sect. 16, *ante*, p. 102, as to deposit of list at office of Metropolitan Asylum District.

Ratepayer, &c., may inspect

69. Any ratepayer, overseer, clerk of an assessment committee, or surveyor of taxes in

the metropolis may, at all reasonable times, without payment, inspect and take copies of and extracts from all valuation lists and documents which in pursuance of this Act are under the control of the clerk of the managers of the Metropolitan Asylum District, or of the clerk of the assessment sessions. Sect. 69. documents, &c., in hands of clerk of managers or assessment committee.

Any surveyor of taxes and any guardian and any overseer in a union, without payment, and any ratepayer in a union on payment of a fee not exceeding one shilling (to be carried to the common fund), may at any reasonable time inspect and take copies of and extracts from any valuation lists, notices of objection, returns, and other documents in the possession or under the control of the assessment committee of that union.

Any clerk of an assessment committee in the metropolis may inspect and take extracts from any valuation lists in the possession or under the control of the assessment committee of any other union in the metropolis.

Any person who hinders a ratepayer, overseer, clerk of an assessment committee, or surveyor of taxes from so inspecting or taking copies of or extracts from any valuation list or document, or demands where not authorized by this Act a fee for allowing him so to do, shall be liable on summary conviction to a penalty not exceeding five pounds for each offence.

70. Where the owner of any hereditament is liable to be assessed to or to pay any rate or tax in the place of the occupier, such owner shall for the purposes of this Act and the Acts Owner where rated to be in position of occupier.

Sect. 70. incorporated herewith be deemed to be the occupier.

With regard to the subject of this section, see sect. 14, *ante*, p. 101; sects. 16, 17, *ante*, p. 102; sect. 25, *ante*, p. 107; sect. 41, *ante*, p. 118.

Amendment of error in rate by two justices.

71. Any person who feels aggrieved by reason of any clerical or arithmetical error in a rate in the metropolis may apply to two justices of the peace or a magistrate sitting at any police court in the metropolitan police district, who, after the applicant has given such notice to the overseers who made the rate and such persons as such justices or magistrates think just, may hear the case in like manner as in the case of summary proceedings, and amend the rate so far as respects such error.

The proceedings under this section will be according to Jervis' Act, 11 & 12 Vict. c. 43. See *Glen's Summary Jurisdiction Acts*, fourth edition.

Omissions from the rate.

72. Whenever the name of any person liable to be rated at the time the rate is made is omitted from any rate in the metropolis, or if any person is described in any such rate by a wrong name, the overseers may, after giving to such person seven clear days notice of their intention, apply to any two justices or any police magistrate as aforesaid, who may hear the case in like manner as in the case of summary proceedings, and insert the name so omitted, or correct the name so wrongly entered, and every such insertion and correction shall operate as if it had been part of the original rate: Provided that any person whose

name is so inserted or corrected in any such rate may appeal against the same at the general quarter sessions of the peace which is holden next after such insertion or correction, in like manner as he might have appealed against the rate. Sect. 72.

Form of rate and declaration.

73. Every poor rate made in the metropolis after the fifth of April one thousand eight hundred and seventy-one shall contain the particulars specified in the fourth schedule to this Act, together with such other particulars as the Poor Law Board may from time to time by order direct, and the overseers shall sign the form of declaration which is given in that schedule before the rate is allowed by the justices. And the justices shall not allow any rate at the foot of which the said declaration has not been added and signed.

Any overseer who wilfully omits to make the said declaration or makes the same falsely shall be liable on summary conviction to a penalty not exceeding five pounds.

With reference to this section see the Circular of the Poor Law Board, dated 13th March, 1871; and also the order therein referred to dated 3rd March, 1871, in Appendix III., *post*, p. 187.

Amendment of 25 & 26 Vict. c. 103, s. 11.

74. The entry of the proceedings of the assessment committee at any meeting, and of the names of the members who attend that meeting, may be signed by the chairman of the next meeting of the committee, and every entry and minute purporting to be so signed shall be received in evidence in the same manner as if such entry or minute had been signed by the chairman of the meeting at which the pro-

Sect. 74. ceedings took place and the members were present.

See 25 & 26 Vict. c. 103, s. 11, *ante*, p. 11.

Saving of powers to value property not included in a valuation list.

75. Nothing in this Act shall in any way alter or affect the mode of valuing or taxing any hereditament which is not included in any valuation list, or which is chargeable according to the profits and not according to the gross value, or the mode of charging the occupiers of land subject to a tithe rentcharge in respect of such tithe rentcharge.

Separate assessment of houses for purposes of house duty, income tax, and licensing Acts.

76. Where for the purposes of the Acts relating to the duty on inhabited houses, or to the duties charged under Schedule B. of the Income Tax Act, or to the sale of exciseable liquors, it is necessary to make a separate valuation of any hereditament by reason of its not being separately valued in any valuation list, the value of such hereditament shall be ascertained in the same manner as if this Act had not passed.

Repeal of Acts.

Repeal of Acts herein described.

77. The enactments specified in the fifth schedule to this Act, and so much of any other Acts, whether public or local and personal, as authorizes any valuation of hereditaments to be made for the purposes of any rate or tax in respect of which the valuation list is by this Act made conclusive, are hereby repealed, where they relate only to the metropolis absolutely,

and in other cases so far as they relate to the metropolis: Provided— Sect. 77.

1. That the provisions of the Acts so repealed shall remain in force until the provision or provisions substituted for them by this Act shall respectively come into operation:
2. That this repeal shall not affect the validity or invalidity of anything done or suffered under any of the said provisions while they remain in force, or any right or title acquired or accrued under any of the said provisions while they remain in force, or any remedy or proceeding in respect thereof.

Sched. 1. FIRST SCHEDULE.—(See sect. 4, *ante*, p. 94.)

Date of Act.	Short title used in this Act.
10 Geo. 4, c. 44.	The Metropolitan Police Act.
5 & 6 Vict. c. 35.	The Income Tax Act.
14 & 15 Vict. c. 36.	The House Tax Act.
15 & 16 Vict. c. 81.	The County Rate Act.

SECOND SCHEDULE.—(See sect. 51, *ante*, p. 134.)

PART I.

Valuation List for [*the parish or place for which the list is made*] in the Metropolitan union of [*or* not being in union] in the county of .

Number.	Name of occupier.	Name of owner.	Description of property.	No. of class.	Name or situation of property.	Extent.	Gross value as estimated by overseers.	Gross value as estimated by surveyor of taxes.	Rate of deduction per cent.	Rateable value.	Gross value as finally determined by assessment committee.	Rateable value as finally determined by assessment committee.

Signed this day of

A. B. } Overseers of the poor of
C. D. } the parish aforesaid.

We do hereby approve the above valuation list, and certify that in determining the gross and rateable value

of the above hereditaments the provisions of the Valuation (Metropolis) Act, 1869, have been duly complied with. Sched. 2.

Signed this day of .

A. B., *C. D.*, *E. F.* } Members of the Assessment Committee of the union.

Note.—The two last of the above columns (for gross and rateable value as determined by assessment committee) must be filled up, and the totals of those columns must be added up after the objections to the alterations have (if any) been heard, and before the list is finally approved.

Part II.

Form of Certificate where no Supplemental List is sent.

We, the overseers of the parish of , do hereby certify that no alteration has taken place in the matters stated in the valuation list of this parish which renders a supplemental list necessary.

A. B., *C. D.* } Overseers of the parish of .

THIRD SCHEDULE.—(See sect. 52, *ante*, p. 135.)

Showing the several classes into which the hereditaments inserted in a valuation list under this Act are to be divided.	Maximum rate of deductions. Per cent. or proportion.
Class 1. Houses and buildings, or either of them, without land other than gardens where the gross value is under 20*l.* - - - - -	25 or $\frac{1}{4}$th.
„ 2. Houses and buildings without land other than gardens and pleasure grounds valued therewith for the purpose of inhabited house duty where the gross value is 20*l.* and under 40*l.* - - - - - -	20 or $\frac{1}{5}$th.
„ 3. Houses and buildings without land other than gardens and pleasure grounds valued therewith for the purpose of inhabited house duty where the gross value is 40*l.* or upwards -	16$\frac{2}{3}$ or $\frac{1}{6}$th.
„ 4. Buildings without land which are not liable to inhabited house duty and are of a gross value of 20*l.* and under 40*l.* - - -	20 or $\frac{1}{5}$th.
„ 5. Buildings without land which are not liable to inhabited house duty and are of a gross value of 40*l.* or upwards - - - -	16$\frac{2}{3}$ or $\frac{1}{6}$th.
„ 6. Land with buildings not houses - - -	10 or $\frac{1}{10}$th.
„ 7. Land without buildings - - - -	5 or $\frac{1}{20}$th.
„ 8. Mills and manufactories (*a*) - - - -	33$\frac{1}{3}$ or $\frac{1}{3}$rd.

On appeal against decisions of the Holborn Union Assessment Committee, the assessment sessions at their first court in 1871, held that a *distillery* and a *brewery* must be included in Class 8; the sessions also held that a builder's workshop and premises were a manufactory and came within Class 8; and lately the same sessions held that a newspaper printing office was a manufactory to be included in Class 8.

Class 9. Tithes, tithe commutation rentcharge, and other payments in lieu of tithe - - -

„ 10. Railways, canals, docks, tolls, waterworks, and gasworks - - - - - - - -

„ 11. Rateable hereditaments not included in any of the foregoing classes - - - -

To be determined in each case according to the circumstances and the general principles of law.

The maximum rate of deductions prescribed in this schedule shall not apply to houses or buildings let out in separate tenements, but the rate of deductions in such cases shall be determined as in classes 9, 10, and 11.

(*a*) The modern use of the word "mill" as referring to a place where goods are manufactured—as woollen or cotton cloth—and that in which it is used in the statute, is different from its ancient use. According to Dr. Johnson it is in general an engine in which any operation is performed by means of wind or water—sometimes it is used for engines, turned by the hand or by animal force. As regards "manufactories," he says—

Manufactory is—

(1.) The practice of making any piece of workmanship.

(2.) The place where a manufactory is carried on.

According to Webster it is a house or place where *goods are* manufactured.

Sched. 4. FOURTH SCHEDULE.—(See sect. 73, *ante*, p. 147.)

FORM OF RATE.

Rate for the Relief of the Poor of the Parish of in the Union, and for other purposes chargeable thereon, according to law, made this day of in the year of our Lord 18 , after the rate of in the pound, which is estimated to meet all the expenses for the above purposes which will be incurred before the day of next.

No.	Name of occupier.	Name of owner.	Description of property rated.	Name or situation of property rated.	Rateable value.	Rate at in the pound.

DECLARATION TO BE ADDED TO THE RATE.

We, the undersigned, do hereby declare that one of us, or some person on our behalf, has examined and compared the several particulars in the respective columns of the above rate with the valuation list made under the authority of the Valuation (Metropolis) Act, 1869, and now in force in this parish (*or* township), and the several hereditaments are, to the best of our belief, rated according to the value appearing in such valuation list, and do declare that the total of the above rate amounts to pounds shillings and pence.

_____ } Churchwardens.
_____

_____ } Overseers.
_____

FIFTH SCHEDULE.—(See sect. 77, *ante*, p. 148.) Sched. 5.

43 Geo. 3, c. 161.—An Act for repealing the several duties under the management of the Commissioners for the Affairs of Taxes, and granting new duties in lieu thereof; for granting new duties in certain cases therein mentioned; for repealing the duties of excise on licenses, and on carriages constructed by coachmakers, and granting new duties thereon under the management of the said Commissioners for the Affairs of Taxes, and also new duties on persons selling carriages by auction or on commission - - - - - - - - -	in part, namely,—
So much as relates to the mode of ascertaining the value of houses with respect to the value of which the valuation list is conclusive.	
48 Geo. 3, c. 55.—An Act for repealing the duties of Assessed Taxes, and granting new duties in lieu thereof, and certain additional duties to be consolidated therewith; and also for repealing the stamp duties on game certificates, and granting new duties in lieu thereof, to be placed under the management of the Commissioners for the Affairs of Taxes - - - - - - - - - -	in part, namely,—
So much as relates to the mode of ascertaining the value of houses with respect to the value of which the valuation list is conclusive.	
57 Geo. 3, c. 25.—An Act to explain and amend an Act made in the forty-eighth year of His present Majesty for repealing the duties of Assessed Taxes, and granting new duties in lieu thereof; and to exempt such dwelling houses as may be employed for the sole purpose of trade, or of lodging goods, wares, or merchandise from the duties charged by the said Act - - - - - - - - - -	in part, namely, —
So much as relates to the mode of ascertaining the value of houses with respect to the value of which the valuation list is conclusive.	

10 Geo. 4, c. 44.—An Act for improving the police in and near the metropolis - - - - - - } in part, namely,—

So much of sections thirty and thirty-two as relates to the ascertaining the value of any hereditaments with respect to the value of which the valuation list is made conclusive.

6 & 7 Will. 4, c. 96.—An Act to regulate parochial assessments - - - - - - - - - } in part, namely,—

Sections one, two, six, seven, and nine.

5 & 6 Vict. c. 35.—An Act for granting to Her Majesty duties on profits arising from property, professions, trades, and offices until the sixth day of April, one thousand eight hundred and forty-five (in this Act called the Income Tax Act) - - - - - - } in part, namely,—

Section sixty. No. I.
No. II. pars. 1, 3.
No. IV. pars. 2, 4.
No. V. (so far as respects the deductions allowed by this Act.)

Section sixty-three. No. X. pars. 1, 2, 3, 4.

Sections sixty-four, sixty-five, sixty-six, sixty-seven, sixty-eight, seventy-eight, eighty-one, eighty-two, eighty-seven, and any other part which relates to the ascertaining of the value of lands, tenements, and hereditaments with respect to the value of which the valuation list is made conclusive.

14 & 15 Vict. c. 36.—An Act to repeal the duties payable on dwelling-houses according to the number of windows or lights, and to grant in lieu thereof other duties on inhabited houses according to their annual value (in this Act called the House Tax Act) - - - - - - - - - - } in part, namely,—

So much as relates to the mode of ascertaining the value of houses with respect to the value of which the valuation list is conclusive.

15 & 16 Vict. c. 81.—An Act to consolidate and amend the statutes relating to the assessment and collection of county rates in England and Wales (in this Act called the County Rate Act) - - - - } in part, namely,—

So much of sections one to twenty, both inclusive, as relates to the preparation of a basis

	or standard of county rate for any part of the metropolis, and sections forty to forty-three, both inclusive.	
16 & 17 Vict. c. 34.—An Act for granting to Her Majesty duties on profits arising from property, professions, trades, and offices - - - - -	Sections thirty-two and forty-seven, and so much of the rest of the Act as relates to the mode of ascertaining the value of any hereditaments with respect to the value of which the valuation list is conclusive.	in part, namely,—
18 & 19 Vict. c. 120.—An Act for the better local management of the metropolis (Metropolis Management Act, 1855) - - - - - - - - -	So much of sections one hundred and seventy-five, and one hundred and seventy-nine as relates to ascertaining the value of any hereditament with respect to the value of which the valuation list is conclusive.	in part, namely,—
20 & 21 Vict. c. 64.—An Act for raising a sum of money for building and improving stations of the metropolitan police, and to amend the Acts concerning the metropolitan police - - - - -	Sections eleven and twelve.	in part, namely,—
21 & 22 Vict. c. 33.—An Act for the better management of county rates - - - - - - -	Section one.	in part, namely,—
25 & 26 Vict. c. 102.—An Act to amend the Metropolis Local Management Acts (The Metropolis Management Amendment Act, 1862) - - - - -	So much of sections six, seven, and thirteen as authorizes or relates to the ascertaining the value of any hereditament with respect to the value of which the valuation list is conclusive, and so much of any Act as applies the provisions hereby repealed.	in part, namely,—
25 & 26 Vict. c. 103.—The Union Assessment Committee Act, 1862 - - - - - - - -	Sections three, fourteen, fifteen, the following words in section seventeen, "and a copy of	in part, namely,—

	such valuation list shall be forthwith delivered to the board of guardians," sections twenty-two, twenty-three, twenty-four, twenty-five, twenty-six, twenty-seven, section twenty-eight down to "schedule hereunto annexed," sections twenty-nine, thirty-one, thirty-two, thirty-three, thirty-four, thirty-five, thirty-six, thirty-nine, forty-one, forty-two, forty-three, and forty-five.
27 & 28 Vict. c. 39.—The Union Assessment Committee Amendment Act, 1864 - - - - - -	in part, namely,—
Sections one, nine, and eleven.	
29 & 30 Vict. c. 64.—An Act to amend the laws relating to the Inland Revenue - - - - - - -	in part, namely,—
Section seventeen, so far as it relates to the value of property.	
29 & 30 Vict. c. 78.—The County Rate Act, 1866	in part, namely,—
Section one.	
31 & 32 Vict. c. 122.—The Poor Law Amendment Act, 1868 - - - - - - - - - - -	in part, namely,—
Sections thirty, thirty-one, thirty-two, and thirty-eight.	

THE METROPOLIS MANAGEMENT ACTS AMENDMENT.

38 & 39 Vict. Cap. 33.

An Act to amend the Metropolis Management Acts.

[29th June, 1875.]

Whereas by section one hundred and sixty-three of the Metropolis Management Act, 1855, it is provided that any sewers rate raised under that Act shall, as regards all land used as arable, meadow, or pasture ground only, or as woodland, orchard, market garden, hop, herb, flower, fruit, or nursery ground, be assessed and levied in the proportion of one-fourth part only of the net annual value of such land:

And whereas by section one hundred and sixty-four of the same Act it is also provided that where any property was, at the time of the issuing of the first commission under the Act of the eleventh and twelfth years of Her Majesty, chapter one hundred and twelve, entitled to exemption from or to any reduction or allowance in respect of the sewers rate, such exemption, reduction, or allowance shall be observed and allowed in levying any sewers rate under that Act:

And whereas by virtue of the said recited Act, and the Acts amending the same, the Metropolitan Board of Works do assess the

Sect. 1.

several parts of the metropolis according to the basis on which the printed totals of the valuation lists sent out by the clerk of the managers of the Metropolitan Asylum District under "The Valuation (Metropolis) Act, 1869," are made, and issue their precepts for sums of money which, by reason of the recited exemptions, cannot be levied upon some of the property included in such assessment, or can only be levied at one-fourth of the amount included in such assessment, whereby the parts of the metropolis wherein such exemptions exist are compelled to make a rate at an increased amount in order to meet such precepts:

Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, as follows:

Metropolitan Board of Works to make abatement on assessment of parts of metropolis containing property exempt from sewers rate.

1. From and after the sixth day of April, one thousand eight hundred and seventy-six, the Metropolitan Board of Works, in every assessment made by them upon such parts of the metropolis as contain property wholly or partially exempt from sewers rate, and in the precepts issued for obtaining payment of the sums so assessed, shall make an allowance or abatement equal to the reduction or exemption which, under the one hundred and sixty-third and one hundred and sixty-fourth sections of the Metropolis Management Act, 1855, is required to be made in levying any rate for the purpose of meeting such precepts.

Totals of value of property so

2. The overseers and assessment committees acting under the Valuation (Metropolis) Act,

1869, shall cause the totals of the gross and rateable value of the property so wholly or partially exempt from sewers rate, and the extent of such exemption, to be ascertained and inserted in the valuation lists which will come into force on the sixth day of April, one thousand eight hundred and seventy-six, and in every valuation list which shall thereafter be made by them. Sect. 2. exempt to be inserted in valuation list.

3. The said lists shall be sent by the assessment committees before the first day of November in each year to the clerk of the managers of the Metropolitan Asylum District, who shall print and send the said totals and extent of exemptions, with the other totals of gross and rateable value required to be printed and sent by the seventeenth section of the said Valuation (Metropolis) Act, 1869. Totals to be printed.

4. Any unfairness or incorrectness in the said totals and extent of exemptions may be appealed against in the manner provided for appealing against totals of gross or rateable value under section thirty-two of the Valuation (Metropolis) Act, 1869. Appeal in case of unfairness, &c.

THE RATING ACT, 1874.

37 & 38 Vict. Cap. 54.

An Act to amend the law respecting the liability and valuation of certain property for the purpose of rates.

[7th August, 1874.]

Be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, as follows:—

Short title.

1. This Act may be cited as "The Rating Act, 1874."

Extent of Act.

2. This Act shall not apply to Scotland or Ireland.

Abolition of certain exemptions from rating.

3. "Whereas by the Act of the forty-third year of the reign of Queen Elizabeth, chapter two, intituled 'An Act for the Relief of the Poor,' it is provided that a poor rate shall be raised in every parish by taxation of, amongst other persons, every occupier of certain hereditaments in such parish; and it is expedient to extend the said Act and the Acts amending the same (which Act and Acts are in this Act referred to as the Poor Rate Acts), to hereditaments other than those mentioned in the said Act": Be it therefore enacted that,—

From and after the commencement of this Act the Poor Rate Acts shall extend to the fol-

lowing hereditaments in like manner as if they were mentioned in the recited Act of the forty-third year of the reign of Queen Elizabeth; that is to say, Sect. 3.

(1.) To land used for a plantation or a wood or for the growth of saleable underwood, and not subject to any right of common.

The Local Government Board, in their circular letter of Nov. 24, 1874, point out that "the timber and other trees or shrubs themselves are not made rateable but the *land* on which they are growing, and therefore the statute expressly repeals so much of the statute of Elizabeth as relates to the assessment of the occupier of saleable underwood, and imposes the liability in respect of the *land* on which it is produced." But in all cases in which land is rated its value must be estimated by reference to what is produced on it.

(2.) To rights of fowling, of shooting, of taking or killing game or rabbits, and of fishing when severed from the occupation of the land; and

(3.) To mines of every kind not mentioned in the recited Act.

Valuation of land used as plantation, &c.

4. The gross and rateable value of any land used for a plantation or a wood, or for the growth of saleable underwood, shall be estimated as follows:—

(*a*) If the land is used only for a plantation or a wood, the value shall be estimated as if the land instead of being a plantation or a wood were let and occupied in its natural and unimproved state:

For the definition of *gross value* see sect. 15, *post*, p. 175. The term *rateable value* is defined in the 6 & 7 Will. 4, c. 96, s. 1, thus. It is an estimate "of the rent at which

Note to Sect. 4.

the hereditament might reasonably be expected to let from year to year, free of all usual tenants' rates and taxes and tithe commutation rent-charge, if any, and deducting therefrom the probable average annual cost of the repairs, insurance, and other expenses, if any, necessary to maintain it in a state to command such rent."

Where E. was owner and occupier of woodlands which were not used for the growth of saleable underwood, and he had the right of sporting in the woods, and the overseers added a small sum of two shillings per acre to the rateable value of the natural and unimproved land in respect of this sporting right, it was held that this was a proper addition, and was warranted by the Act 37 & 38 Vict c. 54, s. 4. *Eyton* v. *Mold*, 45 J. P. 54; 43 L. T. (N.S.) 472.

(*b*) If the land is used for the growth of saleable underwood, the value shall be estimated as if the land were let for that purpose :

The Local Government Board, in their letter referring to the alteration in the language of the law whereby the land is assessable instead of the underwoods, say that "the mode of arriving at the value will virtually remain the same, as the value of the land can only be arrived at by estimating the value of its produce."

(*c*) If the land is used both for a plantation or a wood and for the growth of saleable underwood, the value shall be estimated either as if the land were used only for a plantation or a wood, or as if the land were used only for the growth of the saleable underwood growing thereon, as the assessment committee may determine.

Deduction of rate by tenant of

5. Where the rateable value of any land used for a plantation or a wood, or both for a plan-

tation or wood and for the growth of saleable underwood, is increased by reason of the same being estimated in accordance with this Act, the occupier of that land under any lease or agreement made before the commencement of this Act, may, during the continuance of the lease or agreement, deduct from his rent any poor or other local rate, or any portion thereof, which is paid by him in respect of such increase of rateable value (*a*), and every assessment committee, on the application of such occupier, shall certify in the valuation list (*b*) or otherwise the fact and amount of such increase (*c*).

(*a*) Reference may be made to the provisions in the Income Tax Act, 5 & 6 Vict. c. 35, s. 60, sched. A. 9, which makes it imperative upon the occupier to deduct the income tax and compels the landlord to allow it; and sect. 73, which renders contracts to the contrary invalid. A question will arise whether the above permissive clause will suffice to enable a lessee who has covenanted to pay all taxes or rates levied, or leviable by future legislation on the land to make the deduction. The covenant being positive and absolute may be construed as controlling this provision. It will be contended that though the lessee may as a general rule be empowered to make the deduction this cannot be allowed when he has positively covenanted to pay the rate. It was, however, obviously the intention of the framers of the Act that the operation of the above clause should be otherwise and looking at sect. 9 hereafter it seems to be difficult for any court to hold that such is not the result of the enactment.

It must be remembered that this provision only applies to the case of a lease or agreement made before April 6th, 1875.

(*b*) The assessment committee may not have their attention drawn to this matter when they approve of the valuation list, and therefore if they are applied to afterwards they must give the requisite certificate. They will not always have the necessary materials to enable them to do so, and they must in such cases be supplied therewith by the applicant.

Note to Sect. 5.

The certificate in the valuation list will not be of much use to the lessee; he must be supplied with a copy of the entry. Moreover the certificate may be made in some other manner and not in the list at all.

There is no such provision for rates other than the poor rate, but it will not be difficult to calculate the amount from the valuation list, which will generally be available.

(*c*) The committee can only give a certificate of the increase in the valuation of the hereditament. The amount of the increased rate paid by the tenant may be obtained from the overseers, who can ascertain it by a calculation based on the value certified by the assessment committee. They are not, however, required by the Act to interfere, and if they decline to do so the lessee must make his own calculation.

Valuation and rating of rights of shooting, &c.

6. (1.) Where any right of fowling, or of shooting, or of taking or killing game or rabbits, or of fishing (hereinafter referred to as a right of sporting) is severed from the occupation of the land and is not let, and the owner of such right receives rent for the land, the said right shall not be separately valued or rated, but the gross and rateable value of the land shall be estimated as if the said right were not severed; and in such case if the rateable value is increased by reason of its being so estimated, but not otherwise, the occupier of the land may, unless he has specifically contracted to pay such rate in the event of an increase, deduct from his rent such portion of any poor or other local rate as is paid by him in respect of such increase; and every assessment committee, on the application

of the occupier, shall certify in the valuation list or otherwise the fact and amount of such increase (*c*). Sect. 6.

Game, according to 9 Geo. 4, c. 69, is defined as including, "hares, pheasants, partridges, grouse, heath or moor game, black game, and bustards."

Woodcock, snipe, quail, landrail, and rabbits have been made the subjects of the laws relating to poaching, but are not properly *game*, and it will be observed that *rabbits* are expressly mentioned as distinct from *game*.

The gross and rateable value of the land are to be included in the valuation of the land occupied by the tenant. The Local Government Board, in their letter, observe upon this point thus:—"It would appear, therefore, that in dealing with the right as an element of value it ought not to be estimated upon any such consideration as that of the rent which a third person might be found to give for it, but according to its worth to the occupier of the land upon the supposition that the right is not severed; or, in other words, that he himself is entitled to exercise the right without the power of making a profit by letting it." Of course it may be a profit to himself in his own enjoyment.

In estimating the annual value of sporting rights, for the purposes of assessment to the poor rate, the assessment committee should apply the principles of the statute 6 & 7 Will. 4, c. 96, s. 1, and 25 & 26 Vict. c. 103, s. 15, and not merely consider the capacity, in their estimation, of the property for holding game. They should consider what a hypothetical tenant would give to take the right of sporting on a lease from year to year, and make therefrom the appropriate deductions authorised by these statutes. The estimate of the value must be reasonable in amount, and should have reference to the extent of the game usually on the land and under ordinary circumstances, and not the quantity that closely preserved land could hold. If there is good cover for game on the land that fact would be an element in estimating the rent which a tenant would give.

(2.) Where any right of sporting, when severed from the occupation of the land, is let, either the owner or the

Sect. 6.

lessee thereof, according as the persons making the rate determine, may be rated as the occupier thereof.

Where the owner of an estate demised the right of sporting over the estate, retaining the land in her own occupation, it was held that the right of sporting was severed from the occupation of the land within the meaning of sub-sect. 2. *Kenrick* v. *Guilsfield*, 44 J. P. 202; 41 L. T. (N.S.) 624.

(3.) Subject to the foregoing provisions of this section the owner of any right of sporting, when severed from the occupation of the land, may be rated as the occupier thereof.

(4.) For the purposes of this section, the person who, if the right of sporting is not let, is entitled to exercise the right, or who, if the right is let, is entitled to receive the rent for the same, shall be deemed to be the owner of the right.

Gross and rateable value of tin, lead, and copper mines.

7. Where a tin, lead, or copper mine is occupied under a lease or leases granted without fine on a reservation wholly or partly of dues (*a*) or rent, the gross value of the mine shall be taken to be the annual amount of the whole of the dues payable in respect thereof during the year ending on the thirty-first day of December preceding the date at which the valuation list is made, in addition to the annual amount of any fixed rent reserved for the same which may not be paid or satisfied by such dues (*b*).

The rateable annual value of such mine shall be the same as the gross value thereof, except

that where the person receiving the dues or rent is liable for repairs, insurance, or other expenses necessary to maintain the mine in a state to command the annual amount of dues or rent, the average annual cost of the repairs, insurance, and other expenses for which he is so liable shall be deducted from the gross value for the purpose of calculating the rateable value. Sect. 7.

In the following cases, namely,—

1. Where any such mine is occupied under a lease granted wholly or partly on a fine; and
2. Where any such mine is occupied and worked by the owner; and
3. In the case of any other such mine which is not excepted from the provisions of this Act and to which the foregoing provisions of this section do not apply;

the gross and rateable annual value of the mine shall be taken to be the annual amount of the dues, or dues and rent, at which the mine might be reasonably expected to let without fine on a lease of the ordinary duration, according to the usage of the country, if the tenant undertook to pay all tenants' rates and taxes and tithe rent-charge, and also the repairs, insurance, and other expenses necessary to maintain the mine in a state to command such annual amount of dues or dues and rent.

The purser, secretary, and chief managing agent for the time being of any tin, lead, or copper mine, or any of them, may, if the overseers or other rating authority think fit be rated as the occupier thereof (*c*).

In this section,—

The term "mine," when a mine is occupied

Sect. 7.

under a lease, includes the underground workings and the engines, machinery, workshops, tramways, and other plant, buildings (not being dwelling-houses), and works and surface of land occupied in connexion with and for the purposes of the mine, and situate within the boundaries of the land comprised in the lease or leases (*d*) under which the dues or dues and rent are payable or reserved:

The term "dues" means dues, royalty, or toll, either in money or partly in money and partly in kind; and the "amount of dues" which are reserved in kind means the value of such dues:

The term "lease" means lease or sett, or license to work, or agreement for a lease or sett, or license to work:

The term "fine" means fine, premium, or foregift, or other payment or consideration in the nature thereof.

(*a*) See sect. 13, *post*. If these dues are wholly rendered in kind the mine is not within this section. As regards other mines, such as iron, coal, or salt mines, no statutory provision exists for the mode of valuation.

(*b*) The practical difficulty in the way of the overseers and the assessment committees will be to ascertain what dues were paid during the time specified and what the reserved rent amounts to. The statute 35 & 36 Vict. c. 77, s. 10, requires returns to be made to the Secretary of State on or before February 1st in each year of the annual amount of the mineral wrought from the mines during the previous year, but it expressly prohibits the return from individual mines being open to inspection without the consent of the mine owner. The 25 & 26 Vict. c. 103, s. 13, gives the committee power to call for numerous documents but not to call for private papers and accounts, such as these. If the mine owners do not supply the requisite information on these points the values must be made upon estimates framed in accordance with the rule expressed in this section.

Note to Sect. 7.

The Local Government Board in their circular letter point out that the whole of the machinery, works, and buildings will be covered by the assessment estimated upon the dues.

(*c*) The overseers have an option as to who is to be rated. They will often find it impossible to ascertain who are the persons working the mine, and therefore will choose the ostensible agent. It seems that he will be liable personally for the rate as an ordinary occupier.

Where any joint-stock or other company is rated for a mine, the 30 & 31 Vict. c. 106, s. 10, enables an officer to be entered in the rate book under the name of such company, and to vote for the property.

(*d*) Where the mine runs into two parishes it must be divided for the purposes of rating between the two parishes in proportion to the occupation in each. See *Rex* v. *Foleshill*, 2 A. & E. 593; 4 Nev. & M. 360; 4 L. J. M. C. 63.

Deduction of rate by tenant of mine.

8. Where any poor or other local rate which at the commencement of this Act any lessee, licensee, or grantee of a mine is exempted from being rated to in respect of such mine, becomes payable by him in respect of such mine during the continuance of his lease, grant, or license, or before the arrival of the period at which the amount of the rent, royalty, or dues is liable to revision or re-adjustment, he may (unless he has specifically contracted to pay such rate in the event of the abolition of the said exemption) deduct from any rent, royalty, or dues payable by him one-half of any such rate paid by him:

Provided that he shall not deduct any sum exceeding what one-half of the rate in the pound of such poor or other local rate would amount to if calculated upon the rent, royalty, or dues, so payable by him.

A covenant in a lease of iron-stone mines to pay a certain rent, "free of all rates, taxes, and deductions what-

Note to Sect. 8.

soever, parliamentary, parochial, or of any other nature," is not a "specific contract to pay the poor rate, in the event of the abolition of the exemption" of iron-stone mines within sect. 8 of 37 & 38 Vict. c. 54, and the lessee is therefore entitled under that section to deduct half the poor rate from the rent. *Duke of Devonshire* v. *Barrow Hæmatite Steel Co.*, L. R. 2 Q. B. D. (C. A.) 286; 36 L. T. (N.S.) 355; 46 L. J. Q. B. 435. In the court below, 35 L. T. (N.S.) 474; 46 L. J. Q. B. 96.

And again, a covenant by the lessee in a mining lease to pay "all manner of taxes, rates, assessment charges, and impositions whatever . . . which now are or which shall at any time hereafter be imposed upon the said demised mines and premises," is not a specific contract to pay the poor or any other local rates in the event of the abolition of the exemption formerly existing, within the meaning of 37 & 38 Vict. c. 54, s. 8: *Chaloner* v. *Bolckow*, 39 L. T. (N.S.) 134.

General provision as to deduction of rates.

9. Where any occupier, lessee, licensee, grantee, or other person is authorized by this Act to deduct any rate or sum in respect of a rate from any rent, royalty, or dues payable by him, then—

(1.) Any payment so authorized to be deducted shall be a good discharge for such amount of rent, royalty, or dues as is equal to the amount of such payment, and shall be allowed accordingly.

(2.) Any payment so authorized to be deducted may be recovered as an ordinary debt from the person to whom the rent, royalty, or dues may be payable.

(3.) The person receiving the rent, royalty, or dues shall have the same right of appeal and objection with reference to the rate and to the valuation of the hereditament in respect of which

the rate is payable as he would have if he were the occupier of such hereditament. Sect. 9.

Liability of property to local rates as well as poor rates.

10. After the commencement of this Act the hereditaments to which the Poor Rate Acts are extended by this Act, and which are thus made rateable to the relief of the poor, shall be rateable to all local rates in like manner as if the Poor Rate Acts had always extended to such hereditaments.

Commencement of Act.

11. This Act, for the purpose of enabling any hereditament to be included in or omitted from or valued for the purposes of a valuation list or a supplemental or provisional valuation list which will come into force after the sixth day of April, one thousand eight hundred and seventy-five, shall come into operation on the passing thereof, but save as aforesaid, or as is otherwise expressly provided by this Act, shall come into operation on the sixth day of April, one thousand eight hundred and seventy-five; and the expression "commencement of this Act" shall in this Act be construed accordingly.

As to provisions of Sanitary Acts as defined by 35 & 36 Vict. c. 79.

12. The provisions of the Sanitary Acts, as defined by the Public Health Act, 1872, with respect to any special assessment of woodlands for the purpose of any rate under those Acts shall be deemed to extend to and include land used for a plantation or a wood, or for the growth of saleable underwood, or for both such purposes, and made rateable by this Act to the poor rate.

The Public Health Act, 1872, has been repealed, and the "special assessment of woodlands" to general dis-

Note to Sect. 12.

trict rates is now regulated by sect. 211, sub-section (*b*), of the Public Health Act, 1875 (38 & 39 Vict. c. 55). They are to be assessed in respect of the same in the proportion of one fourth part only of the net annual value thereof.

Saving as to mine where dues payable in kind.

13. Nothing in this Act shall apply to a mine of which the royalty or dues are for the time being wholly reserved in kind, or to the owner or occupier thereof.

The Van Mining Company occupied and worked a lead mine under three leases; by one a royalty of one-fourteenth of the minerals obtained under it when ready for smelting, and merchantable on the banks of the works, were reserved to the lessor, or, at his option in lieu thereof, the full value in money; by the second and third, the lessor, who was a different person from the lessor of the first lease, had a reservation for the time being only in money. The company were rated for the machinery and buildings occupied for the purposes of the mine, and the lessor of the first lease for the mine and the royalty or dues reserved in kind; and upon appeal it was held that this was a case within the exemption of the Rating Act, 1874 (37 & 38 Vict. c. 54), s. 13; that the previous rating clauses in that Act did not apply to it, and that therefore the rate was properly made: *Van Mining Co.* v. *Llanidloes*, 34 L. T. (N.S.) 692; L. R. 1 Exch. D. (D. C. A.) 310; 45 L. J. M. C. 138.

Repeal of 43 Eliz. c. 2. as to saleable underwood.

14. So much of the Act of the forty-third year of the reign of Queen Elizabeth, chapter two, intituled "An Act for the Relief of the Poor," as relates to the taxation of an occupier of saleable underwoods is hereby repealed as from the date at which the provisions of this Act with respect to the taxation of occupiers of land used for the growth of saleable underwood come into operation.

Provided that this repeal shall not affect anything duly done or suffered before the said date, or any right acquired or liability accrued

before the said date, or any legal proceeding or remedy in respect of any such right or liability, and every such legal proceeding or remedy may be carried on and enforced in like manner as if this repeal had not been enacted. Sect. 14.

15. In this Act, unless the context otherwise requires,— Definitions of terms (see sect. 15 of 25 & 26 Vict. c. 103).

The term "gross value" has the same meaning as gross estimated rental in the Union Assessment Committee Act, 1862 (*a*):

(*a*) The 23 & 24 Vict. c. 103, s. 15, *ante*, p. 19, defines "gross estimated rental" thus:—"It is the rent at which the hereditament might reasonably be expected to let from year to year free from all usual tenant's rates and taxes and tithe commutation rent-charge, if any."

The term "local rate" means any county rate, borough rate, highway rate (*a*), and other local rate leviable upon property rateable to the relief of the poor:

(*a*) The 5 & 6 Will. 4, c. 50, s. 27, after basing the highway rate on the poor rate, provides that it shall "extend to such *woods, mines,* and quarries of stone or other hereditaments as had theretofore been usually rated to the highways."

The term "valuation list" means as regards any parish or place for which there is no valuation list, the poor rate:

The term "assessment committee" means, in relation to any parish or place where there is no assessment committee, the persons having power to make and assess the poor rate in such parish or place.

APPENDIX I.

6 & 7 WILL. 4, CAP. 96.

An Act to regulate Parochial Assessments.
[19th August, 1836.]

"WHEREAS it is desirable to establish one uniform mode of rating for the relief of the poor throughout England and Wales, and to lessen the cost of appeal against an unfair rate:" Be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, that from and after such period, not being earlier than the twenty-first day of March next after the passing of this Act, as the Poor Law Commissioners shall by any order under their seal of office direct,

All rates to be made on the net annual value of the property.

No rate for the relief of the poor in England and Wales shall be allowed by any justices, or be of any force, which shall not be made upon an estimate of the net annual value of the several hereditaments rated thereunto; that is to say, of the rent at which the same might reasonably be expected to let from year to year, free of all usual tenants' rates and taxes, and tithe commutation rent-charge, if any (*a*), and deducting therefrom the probable average annual cost of the repairs, insurance, and other expenses, if any, necessary to maintain them in a state to command such rent:

Proviso.

Provided always, that nothing herein contained shall be construed to alter or affect the principles or different

(*a*) See *ante*, p. 17.

Appndx. relative liabilities (if any) according to which different kinds of hereditaments are now by law rateable.

Rates to be made in a given form.

2. And be it further enacted, that every such rate made after the said period shall, in addition to any other particular which the form of making out such rate shall require to be set forth, contain an account of every particular set forth at the head of the respective columns in the form given in the schedule to this Act annexed, so far as the same can be ascertained;

And the churchwardens and overseers, or other officers whose duty it may be to make and levy the said rate, or such a number of the said churchwardens and overseers or other officers as are competent to the making and levying of the same, shall, before the rate is allowed by the justices, sign the declaration given at the foot of the said form (*a*); and otherwise the said rate shall be of no force or validity:

Nothing herein to prevent owners from compounding for rates.

Provided always, that nothing herein contained shall be construed to prevent the owners of tenements from compounding for the rates to be assessed on the same, in such manner as they were by any statute or statutes enabled to do before the passing of this Act, so that the gross estimated rental of the hereditaments compounded for be entered on the rate in the proper column (*b*).

Power to order new survey and valuation.

3. And be it enacted, that when it shall be made to appear to the Poor Law Commissioners, by representation in writing from the board of guardians of any union or parish under their common seal, or from the majority of the churchwardens and overseers or other officers competent as aforesaid to the making and levying the rate, that a fair and correct estimate for the aforesaid purposes cannot be made without a new valuation, it shall be lawful for the Poor Law Commissioners (*c*),

(*a*) See p. 43, *ante*.
(*b*) See p. 56, *ante*.
(*c*) See note (*a*) on p. 39.

where they shall see fit, to order a survey, with or without a map or plan, on such scale as they shall think fit, to be made and taken of the messuages, lands, and other hereditaments liable to poor rates in such parish, or in all or any one or more parishes of such a union, and a valuation to be made of the said messuages, lands, and other hereditaments according to their annual value, and to direct such guardians to appoint a fit person or persons to make and take every such survey, map or plan, and valuation, and to make provision for paying the costs of every such survey, map or plan, and valuation, either by a separate rate or by a charge on the poor rates, as they may see fit;

But in case of such charge being made, then provisions shall be made for paying off not less than one-fifth of the sum charged on the rates, and such interest as may from time to time be payable in respect of such charge or any part thereof, in each succeeding year, till the whole is repaid (*d*).

Power for surveyors to enter and examine lands, &c., for purposes of survey and plans.

4. And be it further enacted, that for the purpose of making every such survey, map or plan, and valuation, it shall be lawful for the person or persons so to be appointed for making the same respectively, together with their and every of their assistants and servants, at all reasonable times, until the same respectively shall be completed, to enter, view, and examine, survey and admeasure, all and every part of the messuages, lands, and other hereditaments aforesaid, and to do or cause to be done any act or thing necessary for making such survey, map or plan, and valuation:

Provided always, that any map, survey, plan, or valuation, made previously to the appointment of such person or persons, which shall be tendered to him or

(*d*) See the provision of statute 22 & 23 Vict. c. 49, s. 3, as to the payment of the instalments of loans borrowed under this and similar statutes.

Appndx.

them, and which shall be in his or their judgment and to his or their satisfaction a just and true map or survey, proper for the purposes aforesaid, may be used for such purposes.

Power to take copies or extracts of rates gratis.

5. And be it further enacted, that it shall be lawful for any person or persons rated to the relief of the poor of the parish in respect of which any rate shall be made, at all seasonable times, to take copies thereof or extracts therefrom without paying anything for the same, anything in any Act of parliament to the contrary notwithstanding;

Penalty for refusal to permit.

And in case the person or persons having the custody of such rate shall refuse to submit or shall not permit such person or persons so rated as aforesaid to take copies thereof or extracts therefrom, the person or persons so refusing or not permitting such copy or extract to be made shall forfeit and pay any sum not exceeding five pounds, to be recovered in a summary way before any justice of the peace having jurisdiction in the parish or place.

Justices acting in petty sessions to hold four special sessions in the year to hear appeals.

6. And be it enacted, that the justices (*a*) acting in and for every petty sessions division shall, four times at least in every year, hold a special sessions for hearing appeals against the rates of the several parishes within their respective divisions, and shall cause public notice of the time and place when and where such special sessions will be holden to be affixed to or near to the door of the parish church of the said parishes, twenty-eight days at the least before the holding of the same; and such special sessions shall and may be adjourned from time to time by the justices there present, as they may think fit;

And at such special or adjourned sessions the justices there present shall hear and determine all objections to

(*a*) As to the qualification of those justices, see 27 & 28 Vict. c. 39, s. 6, *ante*, p. 80.

any such rate on the ground of inequality, unfairness, or incorrectness in the valuation of any hereditaments included therein, which decision shall be binding and conclusive on the parties (*b*), unless the person or persons impugning such decision shall within fourteen days after the same shall have been made cause notice to be given in writing of his, her, or their intention of appealing against such decision, and of the matter or cause of such appeal, to the person or persons in whose favour such decision shall have been made, and within five days after giving such notice shall enter into a recognizance before some justice of the peace, with sufficient securities, conditioned to try such appeal at the then next general sessions or quarter sessions of the peace which shall first happen, and to abide the order of and pay such costs as shall be awarded by the justices at such quarter sessions, or any adjournment thereof:

And such justices, upon hearing and finally determining such matter of appeal, shall and may, according to their discretion, award such costs to the party or parties appealing or appealed against as they shall think proper, and their determination in or concerning the premises shall be conclusive and binding on all parties, to all intents and purposes whatsoever:

Seven days' notice to be given of objections.

Provided always, that no such objection shall be inquired into by the said justices in special sessions unless notice of such objection in writing under the hand of the complainant shall have been given, seven days at least before the day appointed for such special session, to the collector, overseers, or other persons by whom such rate was made (*c*):

Proviso.

Provided also, that the said justices in special session shall not be authorized to inquire into the liability of

(*b*) See p. 36, *ante*, and the provision contained in the 27 & 28 Vict. c. 39, s. 1, *ante*, p. 70.

(*c*) See the notice required to be given to the Assessment Committee, *ante*, p. 70.

Appndx.

any hereditaments to be rated, but only into the true value thereof and into the fairness of the amount at which the same shall have been rated.

Justices may act with all the powers of justices in quarter sessions.

7. And be it enacted, that the justices present at any such special or adjourned session shall for the aforesaid purpose have all the powers of amending or quashing any such rate so objected to of any parish or other district within their division, and likewise of awarding costs to be paid by or to any of the parties, and of recovering such costs, which any court of quarter sessions of the peace has upon appeals from any such rate, except as herein excepted:

Provided always, that no order of the said justices shall be removed by *certiorari* or otherwise into any of His Majesty's courts of record at Westminster:

Provided also that nothing in this Act contained shall be construed to deprive any person or persons of the right of appeal against any rate to any court of general or quarter sessions:

Provided also, that no order of the said justices in special sessions shall be of any force pending any appeal touching the same subject matter to the court of general or quarter sessions of the peace having jurisdiction to try such appeal, or in opposition to the order of any such court upon such appeal:

Act confined to England and Wales.

8. And be it enacted, that this Act shall extend only to England and Wales.

Act may be repealed this session.

9. And be it further enacted, that this Act may be repealed or amended by any Act which shall be passed in this session (*a*).

(*a*) The greatest part of this Act, viz., ss. 1, 2, 6, 7, and 9 is repealed in regard to the Metropolis by the 32 & 33 Vict. c. 67, s. 77, *ante*, p. 89.

SCHEDULE to which this Act refers.

Form of Rate.

An Assessment for the Relief of the Poor of the Parish of Merton, in the County of Surrey, and for other purposes chargeable thereon according to Law, made this Thirtieth day of March, in the year of our Lord One Thousand Eight Hundred and Thirty-seven, after the rate of Sixpence in the Pound.

No.	Arrears due or if excused.	Name of Occupier.	Name of Owner.	Description of Property rated.	Name or Situation of Property.	Estimated Extent.	Gross Estimated Rental.	Rateable Value.	Rate at 6*d.* in the Pound.
	£ *s.* *d.*					A. R. P.	£ *s.* *d.*	£ *s.* *d.*	£ *s.* *d.*
1	- - -	Jas. Smith	Jno. Green	Lands and Buildings.	Whiteacre Farm.	40 0 0	60 0 0	55 0 0	1 7 6
2	- - -	Ditto	Ditto	House and Garden.	In West Street.	0 1 0	30 0 0	25 0 0	0 12 6
3	- -7½ Excused	John Poor	Ditto	House.	In Brick Lane.	- - -	1 10 0	1 5 0	0 0 7½
&c.	&c.	&c.	&c.	&c.	&c.	&c.	&c.	&c.	&c.

Declaration of Overseers and Churchwardens.

We, do declare that several particulars specified in the respective columns of the above rate to be true and correct, so far as we have been able to ascertain them, to which end we have used our best endeavours.

THOMAS JONES, *Overseer.*

JOHN THOMAS, [*Churchwarden, &c., &c.*] (*b*).

(*b*) But see now the declaration required by the statute.

APPENDIX II.

32 & 33 Vict. Cap. 40.

An Act to exempt from rating Sunday and Ragged Schools.

[26th July, 1869.]

Appndx.

Whereas for many years and until lately buildings used as Sunday and ragged Schools for gratuitous education enjoyed an exemption from poor and other rates, and it is expedient that they should be exempted from such liability:

Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, as follows:

From 30th Sept. 1869, Sunday and ragged schools may be exempted from rates for relief of poor, &c.

1. From and after the thirtieth day of September, one thousand eight hundred and sixty-nine, every authority having power to impose or levy any rate upon the occupier of any building or part of a building used exclusively as a Sunday school or ragged school may exempt such building or part of a building from any rate for any purpose whatever which such authority has power to impose or levy (*a*):

Provided, that nothing in this Act contained shall prejudice or affect the right of exemption from rating of

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(*a*) Note.—There is no absolute exemption of these schools from the rate. The authority referred to is empowered to exempt, but is not in terms compelled to do so.

It has now been held that the word "may" has not the sense of "must;" and therefore the rating authorities may exercise a discretion in exempting or not exempting Sunday schools or ragged schools from rating: *Bell* v. *Crane*, 29 L. T. (N.S.) 207; 42 L. J. M. C. 122; L. R. 8 Q. B. 481.

Appndx.

Sunday or infant schools, or for the charitable education of the poor in any churches, district churches, chapels, meeting houses, or other premises, or any vestry rooms belonging thereto, or any part thereof, by virtue of an Act passed in the third and fourth years of the reign of King William the Fourth, chapter thirty, intituled "An Act to exempt from poor and church rates all churches, chapels, and other places of religious worship."

Interpretation.

2. A "Sunday school" shall mean any school used for giving religious education gratuitously to children and young persons on Sunday, and on week days for the holding of classes and meetings in furtherance of the same object, and without pecuniary profit being derived therefrom.

A "ragged school" shall mean any school used for the gratuitous education of children and young persons of the poorest classes, and for the holding of classes and meetings in furtherance of the same object, and without any pecuniary benefit being derived therefrom except to the teacher or teachers employed.

Extent of Act.

3. This Act shall not extend to Ireland.

Short title.

4. This Act may be cited as the "Sunday and Ragged Schools (Exemption from Rating) Act, 1869."

NOTE.—The 3 & 4 Will. 4, c. 30, having exempted churches, chapels, meeting-houses, or premises exclusively appropriated to public religious worship from local rates, contains a proviso in these terms:

"That no person shall be liable to any such rates or cesses because the said churches, district churches, chapels, meeting-houses, or other premises, or any vestry rooms belonging thereto, or any part thereof, may be used for Sunday or infant schools, or for the charitable education of the poor."

APPENDIX III.

ORDER OF POOR LAW BOARD.

To the Guardians of the Poor of the several Unions, Parishes and Places named in the Schedule hereunto annexed;—

To the Churchwardens and Overseers of the Poor of the several Parishes and Places comprised in the said Unions, and of the several Parishes and Places named in the said Schedule;—

To the Clerk or Clerks to the Justices of the Petty Sessions held for the Division or Divisions in which the unions, parishes, and places named in the Schedule above mentioned are respectively situate;—

And to all others whom it may concern.

WHEREAS by divers general and other orders addressed to the guardians of the several unions, parishes, and places named in the schedule hereunto annexed, the Poor Law Commissioners and the Poor Law Board respectively prescribed a form in which the book containing the poor rate should be kept in such unions, parishes, and places.

And whereas it is enacted by the 73rd section of the "Valuation of Property (Metropolis) Act (*a*), 1869," that every poor rate made in the metropolis after the 5th day of April, 1871, shall contain the particulars specified in the fourth Schedule to that Act, and that the overseers shall sign the form of declaration which is given in that schedule before the rate is allowed by the justices.

(*a*) See *ante*, p. 147.

Appndx.

And whereas it is expedient that the form of rate book directed to be kept by the orders now in force in the several unions, parishes, and places mentioned in the schedule hereunto annexed should be altered, as hereinafter provided.

Now therefore, we the Poor Law Board, in pursuance of the statutes in that behalf made and provided, hereby order and direct that, on and after the sixth day of April next, the columns numbered respectively 2, 3, 8, and 9 in the form of rate book prescribed by the general or other orders above referred to in force in the unions, parishes, and places mentioned in the said schedule shall be omitted, and that the following form of declaration to be inserted at the foot of the rate shall be substituted for that prescribed by such orders.

FORM OF DECLARATION.

We, the undersigned, do hereby declare that one of us, or some person on our behalf, has examined and compared the several particulars in the respective columns of the above rate, with the valuation list made under the authority of the "Valuation (Metropolis) Act, 1869," and now in force in this parish [*or*], and the several hereditaments are, to the best of our belief, rated to the value appearing in such valuation list, and do declare that the total of the above rate amounts to pounds shillings and pence.

_____ } *Churchwardens.*
_____

_____ } *Overseers.*
_____

SCHEDULE TO THIS ORDER.

Appndx.

UNIONS.

City of London.
Fulham.
Greenwich.
Hackney.
Holborn.
Lewisham.
Poplar.
Saint Olave's.
Saint Saviour's.
Stepney.
Strand.
Wandsworth and Clapham.
Westminster.
Whitechapel.
Woolwich.

Parish of Saint Mary, Lambeth.
Hamlet of Mile End Old Town.

Given under our hands and seal of office, this third day of March, in the year one thousand eight hundred and seventy-one.

GEORGE S. GOSCHEN, *President.*
H. A. BRUCE.
ROBERT LOWE.

JOHN T. HIBBERT, *Secretary.*

In their circular of 13th March, 1871, addressed to the churchwardens and overseers, the Poor Law Board wish to remind them that the statute contains a form of rate (see *ante*, pp. 134, 150) and of the declaration to be made by the churchwardens and overseers, and provides (see *ante*, p. 147) that the justices shall not allow any rate at the foot of which the declaration has not been added and signed.

APPENDIX IV.

CIRCULAR LETTER OF THE POOR LAW BOARD UPON THE ACT OF 1862.

Poor Law Board, Whitehall, S.W.,
17th October, 1862.

SIR,

Appndx.

The Poor Law Board, in pursuance of their letter of the 29th August last, have directed me to make the following communication to the guardians on the subject of the Union Assessment Committee Act of the last session.

The object of the Act is stated in the preamble to be "the making more effectual provision for securing uniform and correct valuations of parishes in the unions of England."

To effect this object, the settling of the valuation of parishes for the assessment of the poor rate is confided to a committee of guardians, to be appointed for every union.

Accordingly the Act provides, that the board of guardians in every union formed under the 4 & 5 Will. 4, c. 76, shall appoint a committee from themselves, to be called "the Assessment Committee of the Union," for the investigation and supervision of the valuations of the parishes of such union.

The appointment, in the first instance, is to be made as soon as convenient after the passing of the Act, and afterwards at the first meeting of the guardians after the election in each year.

The number of the members must be not less than six and not more than twelve, and they are to consist of *ex officio* and elected guardians, with one-third at least of

the former, if the adequate number of *ex officio* guardians exist in the union.

There is, therefore, considerable latitude given to the guardians, and they must exercise their judgment carefully in this respect, giving due attention to the state of their union, as regards the number of parishes comprised therein. The committee should not be too large, else the attendance will be frequently slack; nor too small, otherwise the work will not be done at all, or not done properly.

Special provision is made for unions which are coterminus with municipal boroughs.

If at the annual meeting the guardians neglect, or are prevented from making the appointment, the Poor Law Board are required to appoint some other day for that purpose.—Sect. 4.

Provision is made for the supply of vacancies, and for the power of the committee during the same.—Sects. 5 and 6.

The authority of the committee is to extend over every parish comprised in the union.—Sect. 7.

The board of guardians are to fix the day of the first meeting of the committee; but the committee are to fix the times and places of their subsequent meetings, and at these meetings any guardian of the union may be present, though he will not be entitled to take part in the proceedings.

The quorum of the meetings is fixed at not less than three members, and not less than one-third of the whole number.—Sect. 9.

The committee are required to employ the clerk or assistant clerk of the board of guardians as their clerk, with such remuneration for his services as the Poor Law Board shall sanction.—Sect. 10.

Upon this provision the Board will remark, that as it is quite impossible to determine what amount of labour will be imposed upon the clerk, it is not desirable to fix any sum as his remuneration at the present time. The

Appndx. Board will postpone their decision upon any proposition which shall be made to them until the experience of a few months shall show what will be a fair compensation for the additional labour caused by this Act, and in what manner it will be best to award it in the different unions.

When the committee meet, it will be most advisable that they should appoint a chairman, to act for the residue of the year, and in making choice they should endeavour to obtain the services of a gentleman whose own engagements would not be likely to prevent his giving punctual and constant attention to his duties in the chair.

Provision is made for the keeping of the minutes of the committee, for making the entries thereof evidence in courts of law, and for allowing the same to be inspected by the ratepayers of the union.—Sect. 11.

The board of guardians are required in April of every year to report the proceedings of the committee to the Poor Law Board.—Sect. 12.

The powers which are given to the committee are extensive, but only such as are necessary to enable them to discharge their duties with effect.

They may require overseers and other officers having the custody of books of assessment of taxes or rates, parliamentary (*a*) or parochial, to make returns to them of the particulars relating to such rates, taxes, or property included therein, so far as relates to their union, and to make and transmit extracts therefrom to them. They may require the persons having custody of such books to attend and produce all such books, valuations, and other public documents, and may examine all persons who so attend before them.

But no valuation or assessment is to be produced, which by any provision of law at present is not suffered to be made public.

(*a*) See the subsequent provision contained in the statute 26 & 27 Vict. c. 33, s. 22, *ante*, p. 16.

The statute then provides for the supervision of the valuations of parishes by the committee, in the following manner :—

The overseers of every parish in a union are required, within three months after the appointment of the committee, to prepare a valuation list according to the 6 & 7 Will. 4, c. 96. of the rateable hereditaments in the parish, and, unless they consider the existing valuation to be correct, they shall revise it, and when corrected shall sign the list so made. A form of this list is supplied in a schedule to the Act.

As there is no definition of the term "gross estimated rental" in the 6 & 7 Will. 4, c. 96, and there is to be a column for it in the valuation list, a definition is supplied in the following terms : "The gross estimated rental for the purpose of the schedule to this Act shall be the rent at which the hereditament might reasonably be expected to let from year to year, free of all usual tenant's rates and taxes, and tithe commutation rent-charge, if any." But the definition of the net annual value of the hereditaments contained in the 1st section of that Act is reserved so as not to be repealed or interfered with.—Sect. 15.

As the overseers will not necessarily know of the appointment of the committee, the Board recommend that either the board of guardians should send notice of the appointment, or that the committee themselves, at their first meeting, should send such notice, pointing out to the overseers what they are required to do.

The committee may, by an order, enlarge the time within which the first valuation lists are to be made.

The Board think that this power should be exercised with much caution, as there may be some apprehension that if the committee grant the extension of time too readily more delay will occur in the exercise of their own functions than will be desirable.

The committee may also direct any existing valuation to be revised, or a new valuation to be made by the overseers ; or,

Appndx.

They may, with the consent of the board of guardians, after notice to every guardian, appoint some other person either to revise the existing valuation or to make a new one, and may direct such person to make and sign such valuation list instead of the overseers to whom it is to be delivered.—Sect. 16.

The guardians will observe that the committee cannot make any such appointment of a valuer without the consent of the board of guardians, who must be summoned to discuss the question of this appointment by a special notice.

The valuation list when made is to be deposited in a place indicated in the parish, and to be open to the inspection of the ratepayers of the parish for fourteen days, at the expiration of which time it shall be transmitted to the committee, and any overseer or other ratepayer in the parish (*a*) may inspect and copy the list so transmitted.—Sect. 17.

Any overseer of any parish in the union, or any person aggrieved by the valuation list, may within twenty-eight days after the notice of the deposit, give notice of objection thereto to the committee, to the overseers of the particular parish, and to any other person the valuation of whose property is objected to.—Sect. 19.

Provision is then made for the hearing and deciding of such objections by the committee. In this respect they will exercise judicial functions, and due care must be observed in the discharge of this duty.

The committee may make alterations in the valuation list, and correct names, descriptions, and particulars in the same, upon such information as to them may seem sufficient.

But they may also, with the consent of the guardians as before provided, appoint a person to value the rateable hereditaments comprised in the lists, or omitted therefrom,

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(*a*) This word should have been *union*.

or take such other means as they may think necessary for ascertaining the correctness thereof. Appndx.

The previous provision referred to the action of the committee before the valuation list had been transmitted to the committee, but this applies to their proceeding, if, after having received the list, they find it necessary to have either an entire new valuation of the parish, or a valuation of some part of it, as may become requisite in cases where objections are made to particular valuations only.

When the committee have heard and determined all objections, and made such alterations, insertions, and corrections as to them shall seem proper, they shall approve of the list, and three members of the committee shall sign it, adding the date of the approval.—Sect. 20.

When the committee alter the valuation list they shall cause it, thus altered, to be deposited for inspection in the manner before described, and appoint a day, not less than seven nor more than fourteen days from the re-deposit, for hearing objections to this altered list. And when they have heard and determined all such objections, and made all such further alterations as may be necessary, they shall approve the same in the manner before provided.—Sect. 21.

This will conclude the labours and duties of the committee in regard to the first valuations of the parishes in their union.

But if on appeal to the sessions against a poor rate the same shall be amended, the Assessment Committee are required to alter the valuation list accordingly.—Sect. 22.

The valuation list when approved is to be delivered to the overseers of the parish (*a*), to be preserved by them, and to be subject to the like resort as the poor rate is now, and shall be produced by the overseers when

(*a*) By a subsequent statute a copy is to be supplied to the overseers and not the original.

Appndx. requisite. It is to be the valuation list in force in the parish, and, subject to alterations by supplemental lists, shall continue to be such until a new valuation list, approved of and delivered in like manner as the former, shall be substituted for it.—Sects 23, 24.

Provision is then contained in the statute for a supplemental valuation list being made by the overseers in cases where new property becomes rateable, or the occupation of property is altered, or any increase or diminution occurs in the value.—Sect. 25.

The committee may from time to time, either upon application or where they think it expedient, direct new valuations to be made of all or some of the rateable hereditaments in any parish of the union.

Where the board of guardians give their consent, the committee may in this case also appoint the valuer.—Sect. 26.

All the previous provisions relative to the first valuation list are applicable to the new and supplemental list.

The valuation list having been duly approved and delivered to the overseers, must be strictly acted upon by them in making the poor rate; and if departed from, except in certain special cases, the rate will be of no force (sect. 28); but the poor rate made by any bodies or officers under the authority of a local Act is exempted from the operation of this section.—Sect. 29.

Guardians of unions will observe an important result to follow from this revision of the parochial valuations.

The statute of last year (24 & 25 Vict. c. 55, s. 9) provided a new basis upon which the guardians were to calculate the contributions of the parishes in the union to the common fund, namely, the annual rateable value of those parishes respectively estimated according to the existing assessments for the county and borough rates.

Much dissatisfaction has been felt in many unions at this arrangement, in consequence of the state of the county and borough valuations, as applied to the several

parishes therein. Great inequalities existed among the several parishes in many counties, and thus in numerous unions complaints have been made. Appndx.

This will, however, be removed by the enactment in sect. 30, which provides, that when the Assessment Committee for any union shall have approved valuation lists for *all* the parishes in the union, the computations of the contributions of the several parishes to the common fund shall be based upon the valuation lists lastly approved of for such parishes.

Hence as the Assessment Committee will have equal jurisdiction over all the parishes in their union, it might be expected that a just and uniform system of valuation would be adopted, and that no complaint of unfairness or inequality would arise.

Nevertheless, to meet the possibility of any grievance between the several parishes in a union, it is provided that a copy of the valuation list in force for every parish in the union shall be deposited in the board room or other convenient place in the union, and be open to inspection (sect. 31), and a power of appeal to the quarter sessions is given to the overseers of any parish in the union in a manner similar to that which exists in the case of a county rate. The justices at these sessions are to hear and determine the appeal, and may, if they see fit, order a valuation to be made of any parish which is the object of the appeal. The costs of such appeal and of the valuation made under the order of the court are provided for in sects. 32, 33, 34.

It is now necessary to advert to the expenses to be incurred in carrying this Act into execution.

It is provided that the committee may allow compensation for returns, copies, extracts, valuations, valuation lists, and other things done in pursuance of their order, as they shall see just (sect. 37). In issuing their orders, they must therefore bear in mind that they will incur the responsibility of settling the compensation for the services which they require, and that the remuneration

Appndx. paid to their clerk, and all expenses incurred for the common use and benefit of all the parishes in the union, will be chargeable upon the common fund (sect. 38). But the expenses of making valuations and valuation lists are to be charged upon the poor rate of the parishes for which they are made, unless in the case where a valuation made under the order of the committee does not exceed by one-sixth the valuation list delivered by the overseers, when the expense is to be borne by the common fund of the union.—Sect. 39 (*a*).

Although it is not expected that the important work to be performed under its provisions, which will effect a minute supervision of nearly all the rateable property in the country, can be carried into execution without some charge, the Board trust that the boards of guardians and the Assessment Committees will give their most earnest attention to avoid all unnecessary expenditure.

The 40th section enacts penalties to enforce the powers confided to the committees, and sects. 41, 42, provide for the formal authentication and service of the orders and notices of the committee and of notices and statements upon the committee.

In the schedule, as already noticed, is given the form in which the valuation list is to be made out.

The whole of the provisions have been framed with reference to the unions formed under the 4 & 5 Will. 4, c. 76; but as in some other unions, whether formed under Gilbert's Act (22 Geo. 3, c. 83), or under special or local Acts, there may be a wish to introduce the same system of valuation, provision is contained in this statute (sect. 45), which enables it to be adopted by the governing body of such unions, with the consent of the Poor Law Board.

Finally, the Board recommend the board of guardians to proceed, with as little delay as the circumstances of

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(*a*) See, as to the expenses in parishes, the 27 & 28 Vict. c. 39, s. 7.

their union render necessary, to appoint the committee, so that the overseers, whose office will commence next year, may be in possession of proper revised valuations, and the guardians themselves be able to calculate their next Lady-day contributions upon a correct and uniform basis. In selecting the members of the committee the Board will do well to make choice of those guardians whose general acquaintance with parochial matters, and whose habits of business will enable them to apply themselves with earnestness to the discharge of the onerous duties imposed upon them, and as, at least in the beginning, there must be some considerable demand upon the time of the committee, such guardians should be chosen as can best afford in this respect to attend the meetings with regularity.

Should any question of doubt or difficulty arise either to the guardians or to the committees, in the application of the Act, I am directed to state that the Board will at all times be ready to give such advice as it may be in their power to afford to those who apply for it.*

I am,
Your obedient servant,
W. G. LUMLEY,
Assistant Secretary.

To the Clerk to the Guardians.

* The Local Government Board restrict their advice to communications from the committee, through their clerk or chairman. They decline to advise as to the valuation of particular hereditaments, or to act as legal advisers of the committee, though they do not decline to give advice upon questions stated generally and without reference to particular ratepayers or properties.

CIRCULAR LETTER OF THE POOR LAW BOARD RELATIVE TO THE SUPPLEMENTAL VALUATION LISTS.

Poor Law Board, Whitehall, S.W.
1st March, 1864.

SIR,

Appndx. I am directed by the Poor Law Board to state that they have been consulted on several occasions, as to the meaning and effect of the following words in the 14th section of the Union Assessment Committee Act, 1862: —"Subject to any order as hereinafter referred to which may be made by the committee, the overseers of each parish in the union shall, within three calendar months after the appointment of such committee, make a list of all the rateable hereditaments in such parish, with the annual value thereof respectively, in so much of the form shown in the schedule annexed to the Act 6 & 7 Will. 4, c. 96, as is set out in the schedule to this Act."

The Board understand that the overseers were required by this section to make out the valuation lists within three months after the appointment of the first committee under the Act, and that this requisition does not apply to subsequent years when the committees are renewed. Hence, if the overseers have sent their valuation lists to the committee, and the same have been examined and returned approved, the overseers are not, in the opinion of the Board, required to send in new lists within three months after the renewal of the committee.

But the Board think it very desirable that every committee who shall have completed the revision of the valuation lists of their union should, either at the commencement of their year of office or at some other time, according to their own judgment, examine the valuation lists,

and determine whether it will be requisite that supplemental lists should be made in respect of any of the parishes in their union, according to the provisions of sect. 26 of the Act. Appndx.

If they think proper to adopt this suggestion, they may probably find it convenient to give notice of the days when they will make the examination, so that persons interested in the list may have an opportunity of appearing before them and drawing their attention to matters which may require to be investigated or altered.

I am, Sir,
Your obedient servant,
W. G. LUMLEY,
Assistant Secretary.

To the Clerk of the Assessment Committee.

CIRCULAR LETTER OF THE POOR LAW BOARD UPON THE ACT OF THE SESSION OF 1864.

Poor Law Board, Whitehall, S.W.,
17*th August*, 1864.

Sir,

I am directed by the Poor Law Board to draw the attention of the guardians to the amendments made by the Act of the last session, 27 & 28 Vict. c. 39, termed "The Union Assessment Committee Amendment Act, 1864."

The subjects of the Act are as follows: To provide for appeals against poor rates; to secure more exact valuations of property by valuers; to afford to certain public companies notice of the rateable value of their property; to remove the disqualification of justices in reference to this subject; to provide for the expenses

Appndx.

incurred by overseers under these Acts; to enable loans to be effected to meet the expenses of valuations; to require certain information to be supplied annually to the clerks of the peace; to enable maps or plans to be made by the committees; and to impose penalties upon overseers for certain defaults under the Acts.

1. It is enacted, that before any appeal shall be heard by any sessions against a poor rate made for any parish contained in the union, the appellant shall give twenty-one days' notice, in writing, of the intention to appeal, and the grounds thereof, to the Assessment Committee.

It is then provided that, after the 1st of this month, no person shall appeal to any sessions against a poor rate made in conformity with the valuation list approved of by such committee, unless he shall have given to such committee notice of objection against the list, and shall have failed to obtain such relief in the matter as he deems just.

The statute continues to require the committee to hear such objection, after notice given, at any time, in the manner prescribed by the previous Act with respect of objections, and to amend the list, though it shall have been approved of and no subsequent list shall have been transmitted to them.

If they amend it they shall give notice to the overseers, who shall thereupon alter their then current rate accordingly.

Section 2 enables the Assessment Committee to appear as respondents in the appeal against the poor rate, provided they obtain the consent of the board of guardians, after notice shall have been sent to every guardian. The appearance is to be in the name of the guardians of the union.

Section 3 provides for the payment, by the guardians of the union, of the costs incurred by the committee in and about the appeal.

The 4th section requires the valuer appointed by the

Assessment Committee to make his valuation in writing, to show the particulars of the several hereditaments comprised therein, and the amounts at which he has valued the same respectively, and to sign such valuation. Appndx.

This is to be open to inspection as the minute book of the committee, and copies or extracts may be taken therefrom.

As regards railway, telegraph, canal, gas, and water companies, section 5 requires that the Assessment Committee shall, in certain cases, give notice of the sum or sums set down in the list of the rateable value of the property purporting to be occupied by such companies in any parish respectively.

Some question having been raised, as to whether justices, who are *ex officio* guardians of the union, can sit at the sessions and act as justices in any appeal against the poor rate of a parish contained in such union, by reason of their liability, as ratepayers, to contribute to the common fund of the union, the 6th section removes this disqualification both at the quarter and the special sessions.

The guardians will remember that the 5 & 6 Vict. c. 57, s. 15, removes the objection which might have been urged as to the justice being also a party to the appeal.

The next section, namely, the 7th, provides for the expenses which the overseers may incur in the execution of the Acts; and the Board recommend the guardians to take such means as they shall find most convenient for communicating this provision to the overseers of the parishes in the union.

It is enacted, that when the overseers incur any expense in making out the valuation or supplemental list, or in revising or valuing any of the rateable hereditaments of such parish, under the provisions of the Union Assessment Committee Act, 1862, with the consent of the vestry given, by express resolution, after due

Appndx. notice, they may charge such expense (so far as the same may be authorized by the vestry) upon the poor rate.

If no vestry meeting be held, or no decision be arrived at, on the subject, then they may charge the expense, to the extent to which the Assessment Committee shall allow, upon the poor rate.

It is, however, provided, that as regards the *valuation* of the property, no expense shall be so charged upon the poor rate, unless the consent of the committee shall have been given previously to the same being made.

The overseers should be cautioned not to have any property valued until they shall have applied to the committee for their consent to such valuation being made. The committee will thus exercise a control over the parish officers, and prevent their incurring unnecessary expense, in procuring valuations at much cost.

The Assessment Committee, in many unions, have found it necessary to have complete and minute valuations made of parishes subject to their supervision, and such valuations are frequently not to be obtained without considerable expense. Under the late Act this expense was to be borne by the current rates, although the benefit of a good valuation may extend to the ratepayers in many succeeding years.

It has, therefore, been deemed advisable to enable this charge to be spread over a certain number of years, as in the case of valuations which have been made under the statute 6 & 7 Will. 4, c. 96.

The 8th section accordingly empowers the guardians of the union, with the order of the Poor Law Board, to borrow the requisite amount, to pay for the cost of a valuation ordered by the Assessment Committee, so that the loan shall be repayable by five equal annual instalments. The loan is to be repaid by the parish or by the common fund, according as the one or the other is liable to bear the charge of the valuation itself.

As confidence is reposed in the result of the labours

of the Assessment Committees, in effecting fairness and uniformity in the valuations of rateable property in their respective unions, a provision has been introduced, in the 9th section, to require the clerk of the Assessment Committee to communicate to the clerk of the peace of the county annually, in the month of December, the totals of the gross estimated rental and the rateable value of the property included in the valuation lists of the several parishes in the union, either original or supplemental. This information will facilitate the proceedings of the justices at the quarter sessions, when they make and assess the county rate.

Some complaints have been made that the Assessment Committees have occasionally found themselves unable to conduct their proceedings satisfactorily, by reason of their being no maps, or none to be relied upon, in some parishes. There was no provision in the recent Act to enable them to be procured, and the statute 6 & 7 Will. 4, c. 96, s. 3, was not always applicable.

This default has been met by the 10th section, which empowers the Assessment Committee, where there is no map or plan of any parish available for their use, or sufficient for their purposes, with the consent of the board of guardians, after due notice, and with the order of the Poor Law Board, to appoint a person to make such map or plan at the cost of the common fund or of the parish, as the Poor Law Board shall direct.

The Board presume that this power, thus conferred upon the committee, will be exercised with great care and after serious consideration. The expense of an accurate map is generally very great, and it will not be proper that it should be incurred unless there be real substantial ground for the assistance which a map of a parish is found to render to persons engaged in valuing the several hereditaments in it.

As regards the incidence of the charge, the Board cannot lay down any rule at present to guide their discretion, and shall have to consider the circumstances of

Appndx. every case submitted to them, as it appears that they will have to ascertain whether the benefit is mainly supplied to the union at large or to the particular parish.

The last provision is contained in section 11, which deals with the conduct of the overseers, and renders every overseer liable to a penalty of five pounds, upon a summary conviction, who wilfully omits to make the declaration required to be made by the Act of 1862, or makes the same falsely, knowing the same to be untrue.

This declaration, as the guardians will remember, is to the effect that the rate has been compared with the valuation list made under that Act in force in the parish, and that the hereditaments are rated according to the value appearing therein.

The Act concludes by incorporating the provisions of the former Act with it, and supplying a short title to it.

The Board have thus explained the provisions of this important statute, and submit this letter to the careful attention of the guardians and the Assessment Committee.

I am, your obedient Servant,

W. G. LUMLEY,

Assistant Secretary.

To the Clerk to the Guardians.

APPENDIX V.

COURT OF GENERAL ASSESSMENT SESSIONS.

ORDERS OF COURT regulating the proceedings on Appeals and for determining the Recognizances to be entered into by Appellants.

TABLE OF FEES to be paid on Appeals to Clerks of Special Sessions and to the clerk of the Court of General Assessment Sessions.

GENERAL ASSESSMENT SESSIONS,—

TO WIT.

AT the General Assessment Sessions holden by virtue of "The Valuation (Metropolis) Act, 1869," at the Guildhall, Westminster, on the twenty-third day of June, in the thirty-fourth year of the Reign of our Sovereign Lady Victoria, and in the year of our Lord one thousand eight hundred and seventy, before Sir William Henry Bodkin, Sir Thomas Tilson, Edward Hugh Leycester Penrhyn, Esq., Henry Pownall, Esq., and Mr. Alderman Carter, Orders under "The Valuation (Metropolis) Act, 1869," regulating the proceedings on Appeals to the Assessment Sessions, and for determining the recognizances to be entered into by the Appellants, were made, viz.:—

1. On every Appeal to the Special Sessions from the decision of an Assessment Committee, the Appellants and one surety shall within seven days after giving the

Appndx. notice of Appeal required by the said Act, enter into recognizances in the sum of £20 each, before a Justice of the Peace, acting in and for the division where the hereditaments, the subject of the Appeal, may be situate, conditioned for the due prosecution of the Appeal, and for the payment of the costs that may be ordered by the Court of Special Sessions to be paid by the Appellant, except that this Order shall not apply to any Assessment Committee, to any Overseers, or to any Surveyor of Taxes.

2. On every Appeal to the Assessment Sessions from the decision either of an Assessment Committee or a Special Sessions, the Appellant and two sureties shall, within seven days after giving the notice of Appeal required by the said Act, enter into recognizances before two Justices of the Peace, acting in and for the Division where the hereditaments, the subject of the Appeal, may be situate, conditioned for the due prosecution of the Appeal, and the payment of the costs that may be ordered by the Court of Assessment Sessions to be paid by the Appellant, and the amount of such recognizances shall be determined by such Justices, having regard to the nature of the Appeal, and so that the amount be not less than £50, except that this Order shall not apply to any Assessment Committee, or any Overseers, or to any Surveyor of Taxes (*a*).

3. All Appeals to the Assessment Sessions shall be entered by Petition, to be lodged with the Clerk to the Assessment Sessions, on or before the 14th January next following the final approval of the Valuation List or the Supplemental List, as the case may be, by the Assessment Committee.

(*a*) See the subsequent Orders of the General Assessment Sessions, dated respectively 23rd January, 1871, and 30th October, 1876, *post*, pp. 213, 214.

4. In every case of Appeal, the person or persons who shall be entitled by virtue of the said Act to appear as Respondents to such Appeal, and shall desire so to do, shall give notice in writing of their intention so to appear, and shall therein state whether he or they intend to appear separately, or as joint Respondents with any other person or persons, and such notice must be served on the Clerk of Assessment Sessions, and on the Appellant, before the expiration of fourteen days after the entry of the Appeal, and the person or persons omitting to give such notice, shall not be entitled to be heard unless by special leave of the Court, and then only upon such terms as the Court may think fit to impose. The expression "person or persons" in this Order, shall extend to and include any Ratepayer, any Occupier, any Surveyor of Taxes, any Assessment Committee, any Overseers, and any body of persons authorized by the law to levy rates or require contributions payable out of rates.

5. On or before the 1st February next following the entry of any appeal, the Appellant shall state his case and the facts to be proved, and the points of law (if any) to be argued in support thereof in writing, and shall serve on the Clerk to the Assessment Sessions nine copies thereof for the use of the Court, and one copy on each of the Respondents; and in like manner each of the Respondents shall, on or before the same day, state his case and the facts to be proved, and the points of law (if any) to be argued in support thereof in writing, and shall serve in like manner nine copies thereof for the use of the Court, and one copy on the Appellant (*b*).

(*b*) The statement of a case under Rule 5 must give substantial and detailed information to the other side similar to the requirements in Privy Council Appeals, although it need not set out every tittle of evidence. Railway companies would be expected to give to the parishes general information as to their figures, or it will be assumed that the figures do not tell in their favour.

Appndx.

6. One Counsel only for each party to the Appeal shall be heard by the Court (*a*).

7. The Counsel for the Appellant shall in every case begin, except when a Surveyor of Taxes is the Appellant, in which case the Counsel for the Respondents shall begin. In all cases in which there shall be more than one Respondent, and they shall be entitled to appear separately, their Counsel shall be heard in the order determined by the Court at the time.

8. In case the Court shall determine to refer the investigation of any matter, the subject of any Appeal, to any person, the parties to the Appeal may attend before such person and be heard by their Counsel, or by their Solicitors, and such person shall report the result of his investigation to the Court. The costs of and incidental to such investigation shall be in the discretion of the Court.

9. The costs ordered by the Court to be paid by any of the parties to the Appeal shall be taxed in the usual manner by the Clerk of the Assessment Sessions.

10. The Solicitors of the parties shall attend the clerk of the Assessment Sessions on the drawing up of any order of the Court, at a time to be fixed by him.

11. Such of the expressions in these Orders as are the same as those used in the said Act, shall respectively bear the interpretation given them by the said Act.

W. H. BODKIN, *Chairman.*

(Approved) H. A. BRUCE.

WHITEHALL,
18*th August*, 1870.

(*a*) It is not intended to disallow the fees of two counsel, but only to curtail the oratorical services. See *Law Times* of 1871, p. 239.

"VALUATION (METROPOLIS) ACT, 1869." Appndx.

Fees to be paid to Clerks of Special Sessions on Appeals.

	s.	*d.*
For drawing notice of Special Sessions or of any adjournment thereof - - - - - -	5	0
For preparing and forwarding by post to each Justice residing and acting within the Division and to the Overseers of each Parish within the Division a duplicate of such notice 2s. 6d. each, the total amount being divided proportionately among the Parishes comprised in the Division, and the proportion due from each Parish to be paid by the Overseers - . - - -		
Fee to be paid by each Appellant at the time of entering his Appeal (inclusive of hearing Witnesses and Adjudication) - - - -	10	6
For the order on Appeal to Assessment Sessions -	5	0
For recognizances by Appellant and two Sureties	6	0
Notices to Sureties and Appellant (each) - -	1	0
For taxation of Costs and order thereon when required - - - - - - - -	5	0

General Assessment Sessions. At a Court of General Assessment Sessions, holden at the Guildhall, Westminster, on Thursday the twenty-third day of June, 1870, the above Table of Fees was made.

W. H. BODKIN,
Chairman.

I hereby certify and declare that the Fees set forth in this Table are proper to be received by Clerks of Special Sessions in cases of Appeal under the "Valuation (Metropolis) Act, 1869."

H. A. BRUCE.

WHITEHALL,
18*th August*, 1870.

Appndx.

"VALUATION (METROPOLIS) ACT, 1869."

Fees to be paid to the Clerk of the Court of General Assessment Sessions in each case of Appeal.

	s.	*d.*
Entering Appeal	5	0
Hearing Fee	13	4
Drawing and recording every order of Court	5	0
Copy thereof	2	6
If exceeding five folios, at per folio	0	4
Order for Special Case	5	0
Drawing Case, at per folio (if not drawn by the parties' Solicitor)	1	0
Attending Chairman settling Case, for every hour's attendance	6	8
Copy of the Case as settled, at per folio (if not drawn by the parties' Solicitor)	0	4
Attending Chairman for signature	6	8
Taxation of Costs as between party and party if the amount be under £25	5	0
And for every additional £25	5	0
Swearing each Witness	0	4
Each Subpœna	2	6

General Assessment Sessions. At a Court of General Assessment Sessions, holden at the Guildhall, Westminster, on Saturday, the 30th July, 1870, the above Table of Fees was made.

W. H. BODKIN,
Chairman.

I hereby certify and declare that the Fees set forth in this Table are proper to be received by the Clerk of the Assessment Sessions in each case of Appeal under the "Valuation (Metropolis) Act, 1869."

H. A. BRUCE.

WHITEHALL,
18*th August*, 1870.

GENERAL ASSESSMENT SESSIONS,—

TO WIT.

Appndx. AT the General Assessment Sessions, holden at the Guildhall, Westminster, on the 23rd day of January, in the 34th Year of the Reign of our Sovereign, Lady Victoria, and in the Year of our Lord, 1871, before Sir William Henry Bodkin, Henry Pownall, Esq., Henry Morris Kemshead, Esq., Sir Thomas Tilson, T. M. Ryley, Esq., Captain Robertson, R.N., Mr. Alderman Finnis, and Mr. Alderman Carter, an Order under the Valuation (Metropolis) Act, 1869, regulating the proceedings on Appeals to Assessment Sessions, and for determining the Recognizances to be entered into by the Appellants, was made, viz.:—

In every case in which it shall appear to the Court that for some reasonable cause the Recognizances directed by the order of the Court of the 23rd June, 1870, numbered 2, to be entered into by Appellants and their Sureties, or any of them have been omitted to be entered into in conformity with the said Order, and that some sufficient security for the payment of any Costs that may be awarded to be paid by the Appellant has been given in substitution or part substitution for the same Recognizances, the Court may if it sees fit so to do, waive all or any of such Recognizances and proceed to hear the appeal, notwithstanding such omission. AND, if in any Case it shall appear to the Court that such substituted security as hereinbefore mentioned shall not be sufficient, the Court may, if it think fit so to do, order such increased or additional security to be given or entered

Appndx. into as to the Court may seem just, and may if necessary for the purpose of such Order being complied with postpone the hearing of such Appeal until such time and upon such terms and conditions as to Costs or otherwise as the Court shall think fit.

W. H. BODKIN,
Chairman of the Court.

(Approved)
WHITEHALL,
1*st February*, 1871.
H. A. BRUCE.

GENERAL ASSESSMENT SESSIONS.

AT a Court of General Assessment Sessions, holden under and by virtue of "The Valuation (Metropolis) Act, 1869," at the Guildhall, Westminster, on Monday, the 30th day of October, in the 40th Year of the Reign of our Sovereign Lady Victoria, and in the Year of our Lord, 1876, before Peter Henry Edlin, Esq., Q.C., Assistant Judge, Edward Hugh Leycester Penrhyn, Esq., Thomas Marshall Riley, Esq., and Mr. Alderman Besley—

IT IS ORDERED,

That in every case in which it shall be desired by any Appellant to make a deposit of money in substitution or part substitution of the Recognizances required by the Order of the Court of the 23rd day of June, 1870, numbered 2, such sum of money shall be paid by him into the London and Westminster Bank to the Account of

the Court of General Assessment Sessions, and the receipt given by the Bank for such payment shall be deposited with the Clerk of the Court, and be filed by him in proof of such payment, and such deposit shall in no case amount to less than £50. Appndx.

By the Court.

EDWD. WM. BEAL,

Clerk to the Court.

(Approved)

WHITEHALL,

22*nd November*, 1876.

RICHARD ASSHETON CROSS.

APPENDIX VI.

PAROCHIAL ASSESSMENTS BILL.

Memorandum.

Session 1862.

Appndx.

If there is one anomaly more glaring than another in regard to our local taxation, it is the inequality which exists in the system upon which the different parishes throughout the kingdom are rated. It is now upwards of twenty years ago since the Parochial Assessments Act, introduced by Mr. Poulet Scrope, was passed, and although that measure was a great improvement upon the old law, by affording additional facilities for appeal by the individual ratepayer, it entirely failed in producing anything like a general uniformity in the principle of rating throughout the country.

It has undoubtedly led to a more fair and equal distribution of the burthen between the ratepayers in the same parish; but in a large majority of instances the rate still continues to be no real criterion of the actual rateable value of the property comprised within the parish itself.

With the exception of the question of settlement, there is no subject of poor law administration which has more frequently engaged the attention of parliament, directly or incidentally, than that of a uniform system of rating. In 1850 we had Lord Portman's committee accumulating proof upon proof, not so much in favour of an alteration of the law, as of the necessity of esta-

blishing some authority which should see that the law was carried into effect; and in the following year a bill was introduced for the purpose of placing the supervision of the rates under the control of the magistrates for each county: but this measure found no favour with the country. The area embraced by the rating authority was too extensive, and the ratepayers themselves were excluded from all voice in the election of the assessment board.

No further attempt in the way of legislation was made until the bill brought in again last year; but this bill found no more favour than its predecessor, and for the obvious reason that its machinery and scope were of the same objectionable character. Prior, however, to the introduction of the second bill, viz., in the session of 1860, the country had been somewhat startled by the disclosures made before Earl Grey's committee in regard to the parliamentary franchise, when it was distinctly proved that in more than one fourth of the borough parishes in England the actual rental of the property was in excess not only of the rateable value, but of the gross estimated rental, as shown in the rate book. In many instances the difference was from twenty to thirty, and in some the variation amounted to fifty per cent. But it may be asked how could such a state of things exist in the face of Mr. Poulet Scrope's Act, which requires that every rate shall be made upon the net annual value? The answer is very simple: so long as the overseers choose to sign the statutory declaration that the rate is correct, the magistrates have no alternative but to allow it, and so long as the parishioners are rated fairly *inter se* they have no motive for appeal.

It is true that the county rate is usually levied upon the same assessments as the poor's rate, but whilst this practice affords an inducement to parishes to assess the property as much below its rateable value as possible, the quota of contribution from each parish is not suffi-

Appndx. cient to make it worth the while of any aggrieved parish to encounter the heavy expenses of resorting to the quarter sessions for redress.

These reasons are amply sufficient to show why Mr. Scrope's Act has failed to secure uniformity in rating, and why the public have so long neglected to make a vigorous effort to accomplish that most important object by further legislation.

But the important and salutary Act of the last session, which has cast the establishment expenses and the burthen of maintaining the irremovable poor upon the several parishes of the union according to the rateable value, has compelled the guardians and ratepayers to look into this question more closely; and the object of the Parochial Assessments Bill, which has now passed through committee in the House of Commons, is to afford a ready and inexpensive corrective for the evils already adverted to.

It cannot be too often repeated that the bill does not alter the existing law in regard to the principle of rating, nor does it set up any unconstitutional authority for the purposes of assessment.

The basis of every rate is still to be the net annual value as defined by the existing law, and the duty of the assessment committee, which is to be appointed by the guardians, is simply to see that the rates of every parish in the union are made upon that basis.

Instead of constituting the county magistrates the rating authority, as was done in the two former bills, this measure enacts that the assessment committee for each union shall be selected from the guardians, who are themselves elected annually by the ratepayers; but at the same time, in order that the owners as well as the occupiers of property may be represented, and that the committee may secure the confidence of all classes, provision is made that one third of the number shall consist of *ex officio* guardians.

The principle upon which the jurisdiction for rating of every kind is founded is that the authority shall be coterminous with the area rated; thus overseers assess for parishes, corporations or commissioners for towns, and magistrates for counties; and for the same reason, the authority for regulating the rating of the several parishes in a union to the common stock or fund ought to be vested exclusively in the guardians.

By the Irremovable Poor Act of last session the county rate was adopted as the assessment for estimating the common charges, and this was done because it was the only available machinery at hand; but, independently of many other serious objections to this enactment, it affords no remedy whatever for inequalities in rating between parishes of the same union in different counties, as the magistrates in one county may and do adopt a very different principle of assessment from that acted upon by the magistrates in another, and this is no slight matter, seeing that more than one third of the unions in England and Wales are in mixed jurisdictions.

There is another provision in the proposed bill which commends it to the common sense of every practical man. At present the overseers are invested with the absolute power of making the rate; they may adopt any valuation they please, or no valuation at all; and the only remedy for the unfortunate ratepayers is a formal appeal, involving not only personal inconvenience, but often very considerable expense. But by the present bill the overseers are prevented from making a rate until a proper valuation list has been sent in to the assessment committee, by whom it must be examined and approved, and every ratepayer and parish will have an opportunity, without cost and with little trouble, of objecting to the list and getting it amended before the rate is made.

An attempt was made in committee to constitute

Appndx. municipal corporations the assessment committee within the borough boundary, but, except in those cases in which the borough and union are coterminous, it would be impossible to accede to any such proposal without perpetuating one of the chief evils intended to be remedied by the bill, viz., that of having more than one independent rating authority within the same area, as there are nearly one hundred unions, and amongst them some of great importance, which embrace a large number of parishes beyond the limits of the borough.

It has been alleged that the bill will occasion enormous expense by requiring a revaluation of all the parishes in England. But this objection is founded entirely upon a mistake. A very large number of parishes have already been revalued, and it is entirely within the discretion of the assessment committee whether they will order a new valuation or not.

Under the existing law the guardians may, with the consent of the Poor Law Board, have any parish revalued, and the only alteration made by the bill is to relieve the local authority from the necessity now imposed upon them of obtaining the sanction of the central board before a new valuation is made. Upon the whole it seems impossible to devise a more efficient and less objectionable scheme than the present for securing the important object proposed.

With an assessment committee elected by the representatives of the ratepayers, and associated with several of the magistrates of the district, there need be no fear of partiality; and as the members of the committee will be personally conversant with the actual value of the property throughout the union, they will not experience much difficulty in placing the valuation lists upon a proper footing.

The well known indisposition of boards of guardians to incur unnecessary expense is a sufficient security

against resorting to professional valuers unless their services are imperatively required, and after the first valuation lists have been completed the committee, from often meeting as guardians, will soon get to know every subsequent change or improvement in the value of the property in any parish, and thus have facilities for revising the valuations, which would not be possessed by an authority, such as the county magistrates, acting for a more extended area, and meeting less frequently and at a distance from the locality.

It is right to add that a copy of the bill has been sent to every union; and of the numerous boards of guardians from whom replies have been received nearly all have expressed their decided approval of the measure.

17th July, 1862.

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INDEX.

In this Index (Met.) signifies that the subject of the paragraph refers to the Metropolis only.

PAGE

Abatement from assessments of parts of metropolis containing property exempt from sewers rate (Met.) - 160
Account of receiver of common poor fund, payment to, of fees on appeals (Met.) - - - - - 109
Act, title of - - - - - - - - 1, 86
Addition of parish to union - - - - - - 47
Additions to tenements, provisional valuation lists to be made (Met.) - - - - - - - - 128
Adjournment of the committee's decision - - - 27
of hearing of appeal at quarter session - - 52
Adjournment of assessment sessions (Met.) - - - 81
of special sessions (Met.) - - - - 105
of hearing of appeals (Met.) - - - 113, 115
Agent of mine may be rated - - - - - 169
Agreement of unions for mutual defence in appeals - 78
Allowance of poor rate (Met.) - - - - - 147
documents to be produced on (Met.) - - 144
to overseers for expenses - - - 18, 81
Alteration of valuation list on appeal, how made (Met.) 113
notice of, to be given (Met.) - - - - 118
entry of on duplicates (Met.) - - - - 118
Altered valuation lists - - - - - - - 32
Amendment of errors in poor rate (Met.) - - - 146
Amount of dues defined - - - - - - 170
Annual value for purposes of Income Tax Acts - - 124
Appeal to the committee - - - - - - 25
to the quarter sessions *against list* - - - 51
to sessions *against poor rate* - - - 34, 70
notice of, to assessment committee - - - 70
what preliminary to the appeal - - - 70

PAGE

Appeal of owners against valuation lists when liable for rates - - - - - - - - - 25
against rate, notice of to be given to assessment committee - - - - - 72
Appeals against totals in valuation list and extent of exemptions (Met.) - - - - - - - 161
to general assessment sessions, attendance of clerk of assessment committee on hearing (Met.) - - - - - - - 113
adjournment of (Met.) - - - - - 113
costs (Met.) - - - - - - - 116
to general quarter sessions when rate is corrected by justices (Met.) - - - - 147
to special sessions, publication of time and mode of (Met.) - - - - - - - 101
notice of (Met.) - - - - - - 120
who entitled to appeal (Met.) - - - 103
jurisdiction of sessions (Met.) - - 104, 105
fees on (Met.) - - - - - - 108
service of notice of (Met.) - - - - 112
jurisdiction of justices (Met.)- - - - 113
costs (Met.) - - - - - - 116, 132
rates and taxes, levy of, pending appeals (Met.) 123
place for hearing (Met.) - - - - - 141
to superior court against valuation lists (Met.)- 105
against decision of assessment sessions (Met.) - 117
production of valuation lists on (Met.) - - 144
penalty for not producing (Met.) - - - 144
to general assessment sessions (Met.) - - 108
fees on (Met.) - - - - - - 108
places for hearing (Met.) - - - 110, 141
notice of holding courts for (Met.) - - - 110
attendance of witnesses and production of documents at (Met.) - - - - - - 110
who may appeal (Met.) - - - - 109, 110
service of notice of appeal (Met.) - - - 112
time for giving notice of (Met.) - - - 121
procedure of justices (Met.) - - - - 113
Appearance before committee by solicitor - - - 29

PAGE

Application for extension of time for return of list - 21
Application of Union Assessment Committee Act to single parishes under separate boards of guardians- 88
Appointment of assessment committee (Met.) - - 94
of member of committee by place not in a union and having no guardians (Met.) - - - 138
of clerk and assistants by assessment sessions (Met.) - - - - - - - 107
of chairman of sessions (Met.) - - - 107
of person to make valuation and valuation lists (Met.) - - - - - - 100, 114
of person to make provisional list (Met.) - - 128
of valuer to assist assessment committee (Met.) 140
Apportionment of valuation on division of hereditament 46
Approval of the valuation lists - - - - 29, 32
Arbitration, reference to, not within Valuation Acts - 32
Arithmetical error in rate, amendment of (Met.) - - 146
Assessment of telegraphs - - - - - - - 49
in respect of sewers rate, abatements in respect of (Met) - - - - - - - 160
Assessment committee, appointment of - - - 2
their duties - - - - - - - 2
their members - - - - - - - 2
extent of their authority - - - - 6
acts of, when board incomplete - - - 5
their meetings - - - - - - - 6
their minutes - - - - - - - 11
their power to require production and copies of books - - - - - - - - 11
may appoint a valuer - - - 21, 29, 40
an assessor - - - - - - - 31
may obtain a map - - - - - - - 84
may enlarge time for return of list - - 21
may order revision of valuations - - - 21
members of not liable for costs - - - 31
to examine valuation list - - - - - 26
to give notice of values to companies - - 80
to hear objections - - - - - - 25
to alter the list when necessary - 29, 32, 71

PAGE

Assessment committee, to approve same when correct 29, 32, 42
may apply to guardians to appoint a valuer to assist them - - - - - - 29
to hear objections to altered list - - - 32
to approve of same when corrected - - 29, 32
to cause list to be deposited with guardians - 50
may direct new or supplemental lists to be made - - - - - - - - 40
to approve of the same - - - - - 42
to allow expenses - - - - - 58, 83
authentication and service of their orders - 63
service of notice on - - - - - 63
empowered to defend appeal - - - - 77
appointment of (Met.) - - - - - 94
to hold meetings for hearing objections to lists (Met.) - - - - - - - - 118
notice of such meetings (Met.) - - - 120
to revise valuation lists (Met.) - - - 101
their certificate of approval of list (Met.) - 101
appeals to special sessions against decisions of (Met.) - - - - - - - - 104
appeal to assessment sessions (Met.) - - 111
notice of appeal (Met.) - - - - - 112
Assessment books, open to the committee - - - 11
Assessment of contributions to common poor fund (Met.) 124
Assistant overseer, preparation of valuation lists by - 18
to produce documents to assessment sessions (Met.) - - - - - - - - 110
Attendance of witnesses - - - - - - 14
at special sessions (Met.) - - - - 105
at general sessions (Met.) - - - - 107
of clerks of assessment committee at sessions with list (Met.) - - - - - - 113
Audit of costs and expenses under Valuation Metropolis Act (Met.) - - - - - - - - 133
Auditor under Metropolis Management Act, his qualification (Met.) - - - - - - - 125
Authority of assessment committee, extent of - - 6

Index.

B.

PAGE

Books, injury to, and concealment of - - - - 62
Borough, municipal, assessment committee in - - 4
rate, application of Rating Act to - - - 175
Buildings, new, provisional lists to be made on erection of (Met.) - - - - - - - - - 128
Brewery, held to be a manufactory - - - - 153

C.

Cambridge Award Act preserved - - - - - - 57
Casting vote of chairman of assessment sessions (Met.) - 107
Certiorari, to question decision of assessment session (Met.) - - - - - - - - - - 117
Chairman of committee - - - - - - - 8
has a casting vote - - - - - - - 8
to sign minutes - - - - - - - 11
of assessment committee, signature of, minutes by (Met.) - - - - - - - - 147
his casting votes (Met.) - - - - - 107
Charge of expenses on common fund - - - - 60
on poor rate - - - - - - - 83
Church rate - - - - - - - - - 45
valuation lists to be conclusive for purposes of (Met.) - - - - - - - - 124
Circular letters of the Poor Law Board 189, 190, 200, 202
Casting up of the lists - - - - - - - - 34
Clerical error in rate, amendment of (Met.) - - - 146
Clerk of the committee - - - - - - - 9
his duties - - - - - - - - 9
his remuneration - - - - - - 9, 60
of the union to be appointed clerk of the committee - - - - - - - - - 9
liable to penalty for refusing inspection - - 11
to make copies of lists in cases of loss or injury 37
to have custody of approved valuation list - 50
to send returns of values to clerk of peace - 84

PAGE

Clerk of the peace to receive values from clerk of assessment committee - - - - - - - - 84
Commencement of Rating Act - - - - - 173
Common fund, salary of valuers to be paid out of (Met.) 140
fees to be carried to (Met.) - - - - 145
Common poor fund, contributions to (Met.) - - - 139
Companies, notice to - - - - - - - - 80
Compensation to be allowed by committee - - - 58
Composition for rates - - - - - - - - 56
Compositions in respect of small tenements not to be deducted from rateable value - - - - 57
Compounding for rates preserved - - - - - 56
Consent of guardians to security for payment of costs (Met.) - - - - - - - - - 141
of vestry to appeal to assessment sessions (Met.) 111
Consolidated rate, valuation list to be conclusive for purposes of (Met.) - - - - - - - - 123
Consolidation of proceedings for recovery of rates - - 184
Contributions from government to local rates - - 49
to common fund - - - - - - - 46
to common poor fund (Met.) - - - - 139
payments of, pending appeal against valuation list (Met.) - - - - - - 123
when list is altered (Met.) - - - - 123
valuation list conclusive for purposes of (Met.) 123
not to be affected by provisional list (Met.) - 132
under Metropolitan Poor Act, valuation list to be conclusive for purposes of (Met.) - - 124
Copies of valuation list to be made for the guardians - 23
may be made by ratepayers - - 23
of minutes - - - - - - - - - 11
of valuations - - - - - - - 79
of valuation lists, inspection of, by surveyor of taxes and by ratepayer (Met.) - - - - 100
to be furnished to overseer on payment (Met.) 142
right to (Met.) - - - - - - - 145
of provisional list to be served on occupier (Met.) - - - - - - - - 129
on surveyor of taxes (Met.) - - - - 128

PAGE

Copies to be accompanied by notice of day for making objections (Met.) - - - - - - 129
as altered by assessment committee, to be sent to overseers (Met.) - - - - - 129
of deposited documents, right of ratepayer to take (Met.) - - - - - - 143
of documents right to, of ratepayer (Met.) - 144
right of overseer to (Met.) - - - - 144
of clerk of assessment committee (Met.) - - 144
of surveyor of taxes (Met.) - - - - 144
of guardian (Met.) - - - - - 145
penalty for hindering inspection of list, or demanding unauthorised fees (Met.) - - 145
of notices of objection, right of surveyor of taxes to take (Met.) - - - - - 145
of guardian (Met.) - - - - - 145
of overseers (Met.) - - - - - - 145
of totals of values to whom to be distributed (Met.) - - - - - - - 102
payment for (Met.) - - - - - 102
of returns, right of surveyor of taxes to take (Met.) - - - - - - - 145
of guardians (Met.) - - - - - 145
of overseer (Met.) - - - - - - 145
Copy of approved valuation list for guardians - - 50
may be made for the overseers - - - 37
poor rate - - - - - - - - 23
Copper mine, rateable value of - - - - - 168
Corporation of City of London, copy of totals of values to be sent to (Met.) - - - - - - - 102
Correction of lists - - - - - - 29, 32
after poor rate appeal - - - - - 34
after notice by person aggrieved - - - 71
by quarter sessions - - - - - 51
of name in rate (Met.) - - - - - 146
Costs, members of assessment committee not liable for - 31
Costs of appeals at sessions - - - - - 55, 78
of appeal, payment and recovery of (Met.) - 116
to superior court (Met.) - - - - - 117

PAGE

Costs, how to be raised and paid (Met.)- - - - 132
County rate, basis for assessment of - - - - 44
valuation for - - - - - - - 44
valuation lists to be conclusive for purposes of (Met.) - - - - - - - 124
application of Rating Act to - - - - 175
Custody of valuation list - - - - - - 36
of valuation list (Met.) - - - - - 144

D.

Day of meeting of committee - - - - - 6
Declaration to be signed by overseers - - - 43, 69, 85
on allowance of poor rate (Met.) - - - 147
penalty for omitting, or making false (Met.) - 147
Deductions from gross value in calculating rateable value (Met.) - - - - - - - - 135
from rates and taxes, saving as to (Met.) - 135
Definition of "gross estimated rental" - - - 19
of "net annual value" - - - - - 20
of terms - - - - - - 169, 175
Deposit of list - - - - - - - - 23, 42
of altered list - - - - - - 32, 42
of approved list - - - - - - - 36
of copy of the same with the guardians - - 50
of duplicate valuation list (Met.) - - - 98
where (Met.) - - - - - - - 101
notice of, to be published (Met.) - - - 101
at office of managers of metropolitan asylum district (Met.) - - - - - - - 102
notice of, to state time and mode of objection (Met.) - - - - - - - - 99
Deputy clerk of assessment committee to attend sessions with valuation list (Met.) - - - - - 113
Distillery held to be a manufactory - - - - 153
District local board rates - - - - - - 44
auditor, production of lists and documents to (Met.) - - - - - - - - 144

PAGE

District boards, copy of totals of values to be sent to (Met.) - - - - - - - - 102
valuation list to be conclusive (Met.) - - 123
Docks, deductions to be made for rateable value (Met.) - 152
Dues defined - - - - - - - - - 170
Duration of valuation lists (Met.) - - - - - 122

E.

Enforcement of orders of special sessions (Met.) - - 105
of orders of assessment sessions (Met.) - - 108
Entry of valuer on lands - - - - - - 22, 54
valuer to have power of (Met.) - - - 115
Error in rate, amendment of (Met.) - - - - 146
Errors in valuation list, how in such case (Met.) - - 126
Evidence, false, penalty for - - - - - - 62
at special sessions (Met.) - - - - 105
at assessment sessions (Met.) - - - - 108
of valuation list (Met.) - - - - - 123
how valuation list and provisional list may be proved in (Met.) - - - - - 142
minutes of assessment committee to be (Met.) 147
Examination of lists - - - - - - - - 26
of witnesses - - - - - - - - 14
of witnesses at special sessions (Met.) - - 105
at assessment sessions (Met.) - - - - 107
Exemptions from ratings preserved - - - - 56
by statute, what removed - - - - 162
from rates and taxes, saving as to (Met.) - 135
Excisable liquors, list to be conclusive as to value of hereditament (Met.) - - - - - - - 125
Ex officio guardians to form part of the committee - 2
Acts not to apply to, when assessment committee is appointed by vestry (Met.) - - 97
Expenses of the valuation lists - - 18, 58, 60, 61, 81, 83
of valuation made by the order of quarter sessions - - - - - - - - 55
of assistants appointed by assessment sessions (Met.) - - - - - - - 132

PAGE

Expenses of person appointed by assessment committee to make valuation list (Met.) - - - 100
how to be paid (Met.) - - - - - 100
of assessment sessions (Met.) - - - - 132
of clerk of assessment sessions (Met.) - - 133
of clerk of metropolitan asylum district (Met.) 133
of surveyor of taxes (Met.) - - - - 133
of persons employed by inland revenue commissioners, allowances for (Met.) - - 133
Extent of committee's authority - - - - - 5
Extracts from poor rates - - - - - 23
from minutes - - - - - - 11

F.

False declaration to poor rate, penalty (Met.) - - 147
return, penalty for making (Met.) - - - 137
Fees for inspecting and copying lists and documents (Met.) - - - - - - - - 145
penalty for demanding, unauthorized (Met.) - 145
on appeals (Met.) - - - - - - 108
to clerks of general assessment sessions on appeals (Met.) - - - - - - 212
to clerks of special sessions on appeals (Met.) - 212
"Fine," meaning of the term - - - - - 170
Fishing, exemption from rating removed - - - 163
how to be valued - - - - - - 166
Form of valuation list - - - - - 17, 68
of poor rate - - - - - - - 64
of declaration at foot of rate - - - - 69
Fowling, exemption from rating removed - - - 162
how to be valued - - - - - - 166

G.

"Game," definition of - - - - - - 167
exemption from rating removed - - - 163
how to be valued - - - - - - 166

PAGE

General assesment sessions (Met.) - - - - - 106
Gardens, deductions for rateable value of (Met.) - - 152
time for holding (Met.) - - - - - 121
appointment of court (Met.) - - - - 106
when (Met.) - - - - - - - 107
duration of (Met.) - - - - - - 107
vacancies in (Met.) - - - - - 107
may appoint clerk (Met.) - - - - 107
chairman of (Met.) - - - - - 107
quorum of members (Met.) - - - - 107
adjournment of (Met.) - - - - - 107
jurisdiction of (Met.) - - - - - 108
orders of, for regulating appeals (Met.) - - 108
places for hearing appeals before (Met.) - - 109
notice of time of holding courts (Met.) - - 110
witnesses, &c. (Met.) - - - - - 110
expenses of (Met.) - - - - - - 132
regulations of (Met.) - - - - - 208
General rate, valuation list to be conclusive for purposes of (Met.) - - - - - - - - 123
Gilbert unions - - - - - - - - - 66
Government property, contribution to rates for - - 49
valuation of, for contributions to local rates - 49
Gross estimated rental - - - - - - - 19
Gross value of woods and plantations - - - - 163
of rights of sporting - - - - - 166
of mines - - - - - - - - 168
defined - - - - - - - - 175
insertion of, by surveyor of taxes in duplicate list (Met.) - - - - - - - - 98
notice of, to be given to occupier (Met.) - - 99
total to be inserted in valuation list (Met.) - 101
total to be printed and distributed (Met.) - 102
who entitled to copies of (Met.) - - - 102
decision of special sessions on appeal not to alter total (Met.) - - - - - 104
appeal against total of (Met.)- - - - 111
notice of alteration in total to be sent to clerk of metropolitan asylum district (Met.)- - 118

PAGE

Gross value, valuation list to be conclusive evidence of (Met.) - 123
deductions from, in calculating rateable value (Met.) - 135
scale of deductions for - 152
Guardians to appoint assessment committee - 2
consequence of default - 5
to supply vacancies - 5
presence of, at meeting of committee - 6
to make annual report to the poor law board - 13
copy of list to be sent to - 23
must consent to defence of appeal by assessment committee - 77
must consent to appointment of valuer - 21, 29, 40
must consent to procuring of map - 84
copy of approved valuations for - 50
original list to be supplied to - 50
to be respondents in appeal against valuation list -
may be respondents in appeal against poor rate 77
liable to pay the costs of the appeal against valuation list - 55
and of appeal against poor rate - 78
are to pay the expenses incurred by the committee - 58
may procure loan for valuation expenses - 83
to appoint assessment committee - 94
when to pay expenses of valuation list - 69
may appoint valuer to assist assessment committee (Met.) - 140
may inspect and copy documents under control of assessment committee without fee (Met.) - 145

H.

Hereditaments, definition of (Met.) - 94
Highway rate, valuation list to be conclusive for purpose of (Met.) - 123
application of Rating Act to - 175

PAGE

House tax, valuation list to be conclusive for purpose of (Met.) - - - - - - - - 124
Houses newly erected - - - - - - - - 19
deductions to be made for rateable value of (Met.) - - - - - - - - 152

I.

Income tax, valuation list to be conclusive for purpose of (Met.) - - - - - - - - 124
returns, production of - - - - - 16
Incomplete committee, acts of - - - - - 5
Incorporation of Acts - - - - - - - 86
Increase of value of hereditament, provisional list to be made on (Met.) - - - - - - - 128
Indemnity of clerk of assessment committee for costs on appeals (Met.) - - - - - - - 141
Inland revenue commissioners, remuneration, costs, and expenses of person employed by (Met.) - 133
Insertion of new houses in valuation list - - - 19
Inspection of valuation - - - - - - 79
of valuation lists by ratepayers - - - 23
by overseer - - - - 23
of revised lists - - - - - - 50
of minutes of committee - - - - 11
of poor rate - - - - - - - 23
Interpretation of terms - - - 1, 86, 169, 175
Ireland, Rating Act not to apply to - - - - 162

J.

Jurisdiction of assessment sessions (Met.) - - - 107
of special sessions (Met.) - - - 104, 105
Juror, qualification of (Met.) - - - - - 125
Justices, competency of, to hear appeals - - - 80
appointment of, as members of assessment sessions (Met.) - - - - - - 106
amendment of error in rate by (Met.) - - 146

PAGE

Justices, insertion or correction of, by (Met.) - - 147
not to allow rate unless declaration be signed (Met.) - - - - - - - 147

L.

Land, deductions to be allowed for rateable value of (Met.) - - - - - - - 152
Lead mine, rateability of - - - - - - 168
"Lease," meaning of the term - - - - - 170
Letter book to be kept - - - - - - 11
Lighting and watching rate - - - - - 45
rate, list to be conclusive for purpose of (Met.) 124
Loan for valuation expenses - - - - 62, 83
Local Acts, rates of parishes governed by - - 46, 66
unions formed under, may be brought within the operation of the Act - - - - 66
board district rates - - - - - - 44
"Local rate" defined - - - - - - - 175
extension of the Rating Act to - - - 175
Local rates, recovery of several by consolidated proceedings - - - - - - - 184
contributions from Government towards - 49

M.

Main drainage improvement rate, list to be conclusive for purpose of (Met.) - - - - - - 124
Managers under Metropolitan Poor Act, qualification of (Met.) - - - - - - - 125
Manufactories, deductions for rateable value of (Met.) - 148
Manufactory, meaning of (Met.) - - - - - 153
Maps may be called for by the committee - - - 14
made under the 6 & 7 Will. 4, c. 96, s. 3 - 178
under the 27 & 28 Vict. c. 39 - - 84
Masters of the bench, appointment of member of assessment committee by (Met.) - - - - 138
what expenses to be paid by (Met.) - - - 139

PAGE

Members of assessment committee not liable for costs - 31
Meetings of the committee - - - - - - - 6
Metropolis defined (Met.) - - - - - - - 91
division of, into districts for hearing appeals (Met.) - - - - - - - 109
valuation in (Met.) - - - - - 89
Metropolitan Board of Works, copy of totals of values to be sent to (Met.) - - - - - 102
list to be conclusive for rates assessed by (Met.) 123
Mill, meaning of (Met.) - - - - - - 153
Mills, deductions for rateable value of (Met.) - - 152
Mines, metalliferous, what the term includes - - 169
exemption from rateability removed - - 163
rateable to highway rate - - - - 173
valuation of - - - - - - - 168
when rent is paid wholly in dues - - - 174
of tin, lead and copper - - - - - 168
when dues paid wholly in kind - - - 174
Minutes of the proceedings of the committee - - 11
made evidence - - - - - - - 11
open to inspection - - - - - 11
of assessment committee, signature of (Met.) - 147
Mistakes in valuation lists, how in such case (Met.) - 126
Municipal borough, committee in - - - - - 4
Mutual defence of rates in unions - - - - - 78

N.

Neglect to appoint committee - - - - - 5
Net annual value - - - - - - - - 20
New houses, insertion of, in valuation list - - - 19
New valuation lists - - - - - - - 40
to be made every five years (Met.) - - - 126
New rateable property - - - - - - - 38
Notice to guardians of the proposed appointment of valuer - - - - - - - - 21
of the meetings of the committee - - - 6
of deposit of list - - - - - - - 23
of objections - - - - 25, 27

PAGE

Notice, when not given the default may be waived - 27
of deposit of altered list - - - - - 32
of appeal to the quarter sessions against list - 52
service of - - - - - - - 63
to sessions against rate - - - - 70, 181
of re-deposit of valuation list (Met.) - - 98
of objection to valuation list (Met.) - - 100
of deposit of valuation list by overseers (Met.)- 119
to state time and mode of objection (Met.) - 99
of holding assessment sessions (Met.) - - 110
of appeal to assessment sessions (Met.) - - 112
by surveyor of taxes (Met.) - - - - 135
of holding special sessions (Met.) - - - 105
of appeal to special sessions (Met.) - - - 112
by surveyor of taxes (Met.) - - - - 135
by overseers of application for insertion or correction of name in rate (Met.) - - 146
of appeal against rate to be given to assessment committee - - - - - - 70
of appeal to the assessment committee - - 70
notice of value to companies - - - - 80
Notices to be in writing or in print (Met.) - - - 142
service of (Met.) - - - - - - 142
publication of (Met.) - - - - - 143

O.

Oath, committee cannot examine on oath - - - 16
Objections to valuation lists - - - - - 25
notice of - - - - - - 25, 27
hearing of, by committee - - - 26, 29
to altered list - - - - - - - 32
to supplemental list - - - - - - 42
to valuation list, notice of, to be given to assessment committee before appealing against rate - - - - - - 70
to provisional valuation list, notice of day for making, and mode (Met.) - - - - 129

PAGE

Objections to provisional valuation list, who may make (Met.) - - - - - - - - 130
notice of, to be served (Met.) - - - - 129
Omissions, supply of - - - - - - - 32
Orders of the committee for returns, &c. - - - 14
authentication of - - - - - - - 63
service of - - - - - - - - 63
of general assessment sessions (Met.) - - 208
Order of Poor Law Board (Met.) - - - - - 187
Overseers, word includes churchwardens - - 18, 68
to make out valuation list - - - - 17
remuneration to - - - - - - - 60
to deposit list - - - - - - - 23
to give notice of the deposit - - - - 23
to transmit list to the committee - - - 23
to revise the valuation - - - - - 18
may apply for extension of time for return of valuation list - - - - - - - 21
to publish notice of the hearing of objection - 26
to send copy of list to guardians - - - 23
to deposit altered valuation list - - - 32
Overseers to make supplemental valuation list - - 38
to make poor rate according to approved valuation lists - - - - - - - - 43
their declaration to the rate - 43, 69, 85, 183
penalty for omission - - - - - - 85
penalty for false declaration - - - - 85
may appeal to quarter sessions against approved valuation list - - - - - - - 51
to make and sign valuation lists (Met.) - - 98
to send duplicate to surveyor of taxes (Met.) - 98
to transmit valuation list to assessment committee (Met.) - - - - - - - 119
when to give notice to occupier (Met.) - - - 99
to deposit valuation list (Met.) - - - 99
certified duplicate valuation list to be sent to (Met.) - - - - - - - - 101
copy of totals of values to be sent to (Met.) - 102
appeal of, to special sessions (Met.) - - 103

PAGE

Overseers, appeal of, to assessment sessions (Met.) - 111
to make new valuation list every fifth year (Met.) 126
publication of notices by (Met.) - - - 143
documents to be produced by, on allowance of rates by justices (Met.) - - - - 143
to sign declaration to poor rate (Met.) - - 147
penalty for omitting to do so (Met.) - - 147
penalty for making false declaration (Met.) - 147
Owner, when rated instead of occupier, to be deemed the occupier (Met.) - - - - - - - 145
composition by, preserved - - - - 56
of rights of sporting may be rated - - - 166
appeal by, against valuation list, when liable for rates - - - - - - - - 25
Oxford Act, preserved - - - - - - 57

P.

Parishes under local Acts - - - - - 46, 66
Parliamentary tax books open to inspection - - - 14
Parochial books open to inspection - - - - 14
valuations - - - - - - - 14
Penalty on clerk for refusing inspection of minutes - 11
for non-attendance, disobedience of orders, or refusing to produce books - - - - 62
for injuring books - - - - - 62
on overseers for refusing copies and extracts of rates - - - - - - - 180
for omitting to make declaration - - - 85
for making false declaration - - - - 85
Persons to be rated under Rating Act - - - 166, 169
Piscary, exemption from rating removed - - 12, 162
how to be valued - - - - - - 166
Pleasure grounds, deduction for rateable value of (Met.) - 152
Plantations, exemption from rating removed - - - 162
valuation of - - - - - - - 164
Place of meeting of the committee - - - - 6
Police rate, valuation list to be conclusive for purposes of (Met.) - - - - - - - 124

PAGE
Police rate, provisional list coming into operation (Met.) 131
declaration of overseers with regard to (Met.) - 147
Poor Law Board, their circular letters - - - - 190
when to appoint day for the election of committee - - - - - - - - 5
to settle proportionate contributions in certain cases - - - - - - - - 48
to consent to adoption of the Act in local Act unions - - - - - - - - 66
to issue order for loan for valuation expenses - 83
to issue order to the committee for obtaining a map - - - - - - - - - 84
order of (Met.) - - - - - - 187
Poor Law Commissioners empowered to order valuations of parishes - - - - - - - 178
Poor rate to be made according to approved valuation list - - - - - - - - - 43
except in parishes under local Acts - - - 46
to be made according to the definition in 6 & 7 Will. 4, c. 96 - - - - - 177
Postmaster-General not liable to pay rates for telegraphs 49
Printing office held to be a manufactory (Met.) - - 153
Production of books and documents to the committee - 14
what prohibited - - - - - - 14
of approved valuation list - - - - - 36
Property tax books - - - - - - - 16
Publication of notices of deposit of valuation list (Met.)- 101
of time and mode of making appeals (Met.) - 101
of grounds of appeal (Met.) - - - - 101
of special sessions (Met.) - - - - 105
of assessment sessions (Met.) - - - - 109
Purser of mine to be rated - - - - - - 169
Public Health Act, 1875, rating of woodlands, &c., under 173

Q.

Qualification of justices at the hearing of appeals - - 80
of auditor (Met.) - - - - - - 125
of guardian (Met.) - - - - - 125

PAGE

Qualification of juror (Met.) - - - - - 125
of manager (Met.) - - - - - 125
of vestryman (Met.) - - - - - 125
Quarter sessions, appeal to, against the valuation list - 51
against poor rate - - - 34, 70, 77, 181
Quarter sessions, appointment of members of assessment sessions by (Met.) - - - - 106
appeal to, by person whose name is inserted or corrected in rate (Met.) - - - - 146
Quashing of rate at special sessions - - - - 181
Quorum of the committee - - - - - - 8

R.

Rabbits, rating, right of taking - - - - - 163
Ragged schools, exemption of - - - - - 185
Railways, deductions for rateable value - - - 153
Rate, who to bear - - - - - - 166, 171
form of - - - - - - 64, 183
appeal to special sessions against - 34, 70, 77, 180
Rateable value of woods - - - - - - 163
of right of sporting - - - - - 166
of mines - - - - - - - 168
of small tenements to be inserted in full in valuation lists - - - - - 57, 61
value defined - - - - - - 94
when raised, notice to be given to occupier - 99
total to be inserted in valuation list (Met.) - 101
and printed and distributed (Met.) - - - 102
appeal to assessment session against total (Met.) - - - - - - 104, 111
notice of alteration in total to be sent to clerk of metropolitan asylum district (Met.) - 118
valuation list to be evidence of, for purposes of rates, taxes, and qualifications (Met). - - 123
Ratepayer, meaning of the term - - - - - 50
authority given to - - - 25, 34, 50, 180
Ratepayers defined (Met.) - - - - - - 66
Rates affected by the approved valuation list - - 43

PAGE

Receiver of metropolitan common poor fund, fees to be paid to account of (Met.) - - - - 109
payments by (Met.) - - - - - 133
Recognizances, orders of assessment sessions as to (Met.) 108
Recovery of several local rates at the same time - - 184
Re-deposit of list - - - - - - - 32
of valuation list when altered - - - 34
by overseers (Met.) - - 99
notice of (Met.) - - - 99
Reduction in value, provisional valuation list to be made on (Met.) - - - - - - - - - 128
Reference to arbitration not within Valuation Acts - 32
Regulations of general assessment sessions (Met.)- - 208
Rent, deductions from, under Rating Act - 164, 166, 171
returns of, to be made by owner or occupier (Met.) - - - - - - 137, 14
room to be used for hearing appeals and other purposes (Met.) - - - - - - - 136
Repairs, allowance for - - - - - - 177
Respondent in appeal against list - - - - 54
against poor rate - - - - - - 77
Returns, surveyor of taxes to send forms of, to overseers (Met.) - - - - - - - - 136
assessment committee may order occupier or owner to make (Met.) - - - - 137
right to inspect and copy (Met.) - - - 144
Revision of valuation list by assessment committee (Met.) - - - - - - - - 101
of valuation - - - - - - 17, 21
Royalty, rating while rent of mine reserved in - 170, 174

S.

Salary of valuer appointed to assist assessment committee (Met.) - - - - - - - - 140
Saleable underwoods - - - - - - - 164
repeal of statute of Eliz. in respect of - - 174
Sanitary Acts, power as to rating of woodlands in - 173
Saving of existing laws regarding rates - - - 64

PAGE

Schools, some now are exempt from assessment - - 185
Scotland, Act not to apply to - - - - - 162
Seasonable times, meaning of the words - - - 13
Secretary of mining company may be rated - - - 169
Security for costs of valuation ordered by assessment sessions (Met.) - - - - - - 114
by assessment committee (Met.) - - - 141
by overseers (Met.) - - - - - 141
Service of order of committee - - - - - 63
of notice on committee - - - - - 63
Several fishery, rating of - - - - - - 163
Sewers rate, abatements from assessments in respect of (Met.) - - - - - - - - - 160
Shooting, exemption from rating removed - - - 162
how to be valued - - - - - 166
Signing of valuation list by overseers (Met.) - - - 72
by person appointed by assessment sessions (Met.) - - - - - - - - 98
by members of assessment committee (Met.) - 101
by clerks of guardians (Met.) - - - 140
by vestry clerk (Met.) - - - - - 140
Signing provisional list by clerk to assessment committee (Met.) - - - - - - 130
by overseers of declaration to poor rate (Met.) 147
of minutes of assessment committee (Met.) - 147
Single parishes under separate boards of guardians, Union Assessment Committee Act extended to - 88
Small tenements, full rateable value of, to be inserted in valuation lists - - - - - - 57, 68
Special expenses under Sanitary Acts, provision as to, in Rating Act - - - - - - - - 173
Special sessions for appeals against poor rate - 70, 77, 180
for hearing appeals (Met.) - - - - 103
jurisdiction of (Met.) - - - - 104, 105
powers of (Met.) - - - - - - 105
notice by, of time of sitting (Met.) - - 105
appeal against decision of (Met.) - - 105, 110
Statement, service of - - - - - - - 64
Solicitor, appearance before committee by - - - 29

PAGE

Sporting, rating right of - - - - - - 166
Summons of officers as witnesses (Met.) - - - 107
Sunday schools exempt from rating - - - - 185
Supplemental valuation lists to be made annually (Met.) 38, 40, 126
form of (Met.) - - - - - - 120
if not necessary, overseers to certify (Met.) - 126
when to come into force (Met.) - - - 128
Surface of mine, included in mine - - - - 170
Surveyor of taxes, duplicate valuation list to be sent to (Met.) - - - - - - - - - 98
to insert gross value (Met.) - - - - 98
to transmit list to committee (Met.) - - 98
right of, to inspect, copy, and object to valuation list (Met.) - - - - - - - 99
notice of objection by (Met.) - - - 120
appeal of, to special sessions (Met.) - - 103
to produce documents to assessment sessions (Met.) - - - - - - - - 110
appeal of, to assessment sessions (Met.) - - 111
notice of alteration of valuation list on appeal to be sent to (Met.) - - - - - 118
may object to list (Met.) - - - - 108
to send forms of return and notices to overseers (Met.) - - - - - - - 136
returns to be sent to (Met.) - - - - 137
to send returns to assessment committee (Met.) 137
may inspect and copy lists, &c., under control of clerk of metropolitan asylum district (Met.) 144
of clerk of assessment sessions (Met.) - 145
of assessment committee (Met.) - - - 145

T.

Table of fees on appeals (Met.) - - - - - 108
Telegraphs, assessment of - - - - - - 49
Time for the return of valuation list - - - - 17
extension thereof - - - - - - 21
appointment of the committee - - - 2

PAGE

Tin mine, rating of - - - - - - - 168
Tithes and payments in lieu of tithes, insertion of, in valuation list (Met.) - - - - - - 134
return as to (Met.) - - - - - 137
saving as to (Met.) - - - - - 148
deduction for rateable value of (Met.) - - 153
Tithe rentcharge, exemption of, from gross estimated rental - - - - - - - - - 19
Tolls, deduction for rateable value of (Met.) - - - 153
Totals of values (Met.) - - - - - - 101
to be inserted in valuation list (Met.) - - 101
to be printed and distributed (Met.) - - 102
who entitled to copies (Met.) - - - 102
payment for (Met.) - - - - - 102
decision of special sessions on appeal not to alter (Met.) - - - - - - 104
appeal against, to assessment sessions (Met.) - 103
appeal to superior court (Met.) - - - 105
to general assessment session (Met.)- - 111
alteration of, on appeal (Met.) - - - 118
to be inserted in valuation lists (Met.) - - 160
to be printed (Met.) - - - - - 161
appeal against (Met.) - - - - - 116

U.

Underwoods, valuation of - - - - - - 164
Union Assessment Committee, formation of - - - 2
Act extended to single parishes under separate boards of guardians - - - - - 88
Acts, incorporation and construction of (Met.)- 89
Acts, valuation lists to be dealt with under (Met.) - - - - - - - - 98
Union under Gilbert's Act - - - - - - 66
local Acts - - - - - 2, 71
Unions, combination of, for defence of appeals - - 78
Unoccupied houses, how in such case - - - - 19

V.

PAGE

Vacancies in the committee, supply of - - - - 5
in court of assessment sessions (Met.) - - 107
Valuation, how obtained under 6 & 7 Will. 4, c. 96 - 178
under 23 & 24 Vict. c. 103, to be made in writing - - - - - - - 79
to be signed by valuer - - - - - 79
to be open to inspection - - - - - 79
loan for - - - - - - - 83, 179
of new rateable properties, rules for - - 163
of rights of killing game or of fishing - - 166
of woods and plantations - - - - 163
of saleable underwoods - - - - - 164
of wood and underwood - - - - - 164
deductions in - - - - - - 169
Acts, reference to arbitration not within - - 32
on appeal, assessment sessions may order (Met.) 114
Valuation list, preparation of - - - - - 17
deposit of - - - - - - - 23
copy of, to be delivered to guardians - - 23
revision of - - - - - - 18, 21
approval of - - - - - - 29, 32
correction of - - - - - - 29, 32
custody of - - - - - - - 6
resort to - - - - - - - 36
production of - - - - - - 36
loss or injury of - - - - - 37
when approved to be in force in parish - - 37
supplemental - - - - - 38, 40
appeal against, to quarter sessions - - - 51
expenses of - - - - - - 55, 61
insertion of new houses in - - - - 19
re-deposit of, when altered - - - - 34
totals of value to be inserted in (Met.) - - 160
to be printed (Met.) - - - - - 161
appeal against (Met.) - - - - - 161
mistakes in, how in such case (Met.) - - 126

PAGE

Valuation list to be made and signed by overseers in duplicate (Met.) - - - - - - - 98
how to be dealt with (Met.) - - - - - 98
duplicate of, to be sent to surveyor of taxes (Met.) - - - - - - - 98
insertion in, of hereditament not previously assessed (Met.) - - - - - 99
notice of deposit and re-deposit of (Met.) - 99
grounds on which objections to, may be made (Met.) - - - - - - - 99
right of surveyor of taxes to inspect, copy, and object (Met.) - - - - - - 100
right of ratepayers (Met.) - - - - - 100
time for giving notice of objection (Met.) 93, 119, 120
meetings of assessment committee for hearing objections (Met.) - - - - - 120
revision of, by assessment committee (Met.) - 101
totals of values to be inserted in (Met.) - - 101
duplicate of, to be sent to clerk to metropolitan asylum district (Met.) - - - 101
duplicate of, to be sent to overseers (Met.) - 101
totals of values in, to be printed and distributed (Met.) - - - - - - - 102
when to come into force (Met.) - - - 122
duration of (Met.) - - - - - - 122
to be evidence of what (Met.) - - - 123
to be revised every five years (Met.) - - 126
form of (Met.) - - - - - - - 134
making of, when there are no guardians and no overseers (Met.) - - - - 138
by whom to be signed when vestry or guardians perform duties of overseers (Met.) - - - - - - - - 140
how to be proved (Met.) - - - - - 142
to be produced on allowance of rates (Met.) - 144
custody of duplicate returned to assessment committee by clerk of managers (Met.) - 144

PAGE

Valuation list, production of, by clerk of assessment committee to auditor (Met.) - - - - 144
inspection and taking copies of (Met.) - - 144
"Valuation list" defined - - - - - - 175
Valuer, appointment of (Met.) - - - - - 140
remuneration to (Met.) - - - - - 140
by the committee - - - - - 21, 29, 40
by the quarter sessions - - - - - 54
by the guardians under 6 & 7 Will 4, c. 96 - 178
under 11 & 12 Vict. c. 110 - - - - 42
to sign his valuation - - - - - 79
to give full particulars - - - - - 79
Values, mistakes in, how in such case (Met.) - - 126
Vestry to consent to appeal against the valuation list - 51
to expenses of overseers - - - - - 81
appointment of assessment committee by (Met.) - 95
consent of, to appeal to assessment session (Met.) 111
valuation list to be conclusive as to rates levied by (Met.) - - - - - - - - 123
who to sign list when duties of overseers are performed by (Met.) - - - - - - 140
consent of, to overseers giving security for payment of costs of valuation on appeal (Met.) - 141
Vestry clerk to make out valuation lists - - - 81
to have charge of rate book - - - - 37
defined (Met.) - - - - - - - 93
when to sign valuation list (Met.) - - - 140
Vestryman, qualification of (Met.) - - - - 125

W.

Wales, extension of the Act to - - - - - 67
Waterworks, deductions for rateable value of (Met.) - 153
Witnesses, attendance and examination of, at special sessions (Met.) - - - - - - - 105
attendance and examination of, at assessment sessions (Met.) - - - - - 108, 110

PAGE

Words, interpretation of - - - - - - 1, 86
Woodlands in Sanitary Acts, rate on - - - - 173
Woods, exemption from rates removed - - - - 162
mode of valuation of - - - - - 163
subject to rights of common exempt- - - 163
Writing, valuation to be made in - - - - - 79

Y.

Year defined (Met.) - - - - - - - - 92
Yearly rent, meaning of, in House Tax Act (Met.) - 126

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